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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1960

No. 294

LOUISIANA, EX REL. JACK P. F. GREMILLION, ATTORNEY GENERAL, ET AL., APPELLANTS,

vs.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

FILED AUGUST 4, 1960

PROBABLE JURISDICTION NOTED OCTOBER 24, 1960

SUPREME COURT OF THE UNITED STATES

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[fol. 1]

IN THE 19th JUDICIAL DISTRICT COURT OF THE STATE OF LOUISIANA, PARISH OF EAST BATON ROUGE

No. 55899

THE STATE OF LOUISIANA EX REL. FRED S. LEBLANC, Attorney General, Plaintiff,

v.

JOHN G. LEWIS, J. K. HAYNES, T. J. JEMISON, C. J. GILLIAM, B. J. STANLEY, DORETHA A. COMBRE, R. B. MILLSPAUGH, J. N. STONE, A. P. TUREAUD, SR., A. J. CHAPITAL, HASKET DERBY, CLARENCE LAWS and the NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, Defendants.

PETITION—Filed March 1, 1956

To the Honorable, the Judges of the Nineteenth Judicial District Court in and for the Parish of East Baton Rouge, State of Louisiana:

The petition of the State of Louisiana on relation of its Attorney General, Fred S. LeBlanc, would, with respect, represent unto this Honorable Court as follows, to-wit:

I.

That defendants, John G. Lewis, J. K. Haynes, T. J. Jemison, C. J. Gilliam and B. J. Stanley, are residents of and domiciled in the Parish of East Baton Rouge, Louisiana.

II.

That defendant, Doretha A. Combre, is a resident of and domiciled in the Parish of Calcasieu, Louisiana.

III.

That defendant, R. B. Millspaugh, is a resident of and domiciled in the Parish of St. Landry, Louisiana.

IV.

That defendant, J. N. Stone, is a resident of and domi-
[fol. 2] ciled in the Parish of Caddo, Louisiana.

V.

That defendants, A. P. Tureaud, Sr., A. J. Chapital and Hasket Derby are residents of and domiciled in the Parish of Orleans, Louisiana.

VI.

That defendant, Clarence Laws, is a resident of and domiciled in the Parish of Orleans, Louisiana.

VII.

That the defendant, the National Association for the Advancement of Colored People (hereinafter referred to simply as the N.A.A.C.P.), is a non-profit, non-resident, membership corporation, organized under the laws of the State of New York.

VIII.

That the aforesaid N.A.A.C.P. is a "fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes", within the scope and meaning of R. S. 12:401, 402, 403, et sequentes.

IX.

That defendant, John T. Lewis, is a member of the Board of Directors of the said N.A.A.C.P. and a member of said corporation.

X.

That defendant, J. K. Haynes, is a member of the said N.A.A.C.P. and a member of an executive committee of said corporation in the State of Louisiana.

XI.

That defendant, T. J. Jemison, is a member of the said N.A.A.C.P. and a member of an executive committee of said corporation in the State of Louisiana.

[fol. 3]

XII.

That defendant, B. J. Stanley, is Treasurer of the State Conference of Branches of the N.A.A.C.P., former President of the Baton Rouge Branch of said corporation and a member of said corporation.

XIII.

That defendant, C. J. Gilliam, is President of the Baton Rouge Branch of the N.A.A.C.P. and a member of said corporation.

XIV.

That defendant, Doretha A. Combre, is President of the State Conference of Branches of the N.A.A.C.P. and a member of said corporation.

XV.

That defendant, R. B. Millspaugh, is a member of the said N.A.A.C.P. and a member of an executive committee of said corporation in the State of Louisiana.

XVI.

That defendant, J. N. Stone, is a member of the said N.A.A.C.P. and a member of an executive committee of said corporation in the State of Louisiana.

XVII.

That defendant, A. P. Tureaud, Sr., is a member of the said N.A.A.C.P. and a member of an executive committee of said corporation in the State of Louisiana.

XVIII.

That defendant, A. J. Chapital, is Vice-President of the State Conference of Branches of the N.A.A.C.P. and a member of said corporation.

XIX.

That defendant, Clarence Laws, is N.A.A.C.P. Field Sec-
[fol. 4] retary for the State of Louisiana and a member of said corporation.

XX.

That defendant, Hasket Derby, is a member of the said N.A.A.C.P. and a member of an executive committee of said corporation in the State of Louisiana.

XXI.

That each of the named defendants, with the exception of the N.A.A.C.P., is or has been a member of said N.A.A.C.P. in the State of Louisiana.

XXII.

That the said N.A.A.C.P. has, in the past, and particularly during the years 1953, 1954 and 1955, carried on an extensive business in the State of Louisiana which includes but is not limited to, organization of branches of the N.A.A.C.P., collection of membership dues, holding meetings, prosecution of legal actions, furnishing of counsel to litigants, and other similar activities.

XXIII.

That more especially, the said N.A.A.C.P. held a public mass meeting and parade in the Parish of East Baton Rouge on or about the 5th day of April, 1955.

XXIV.

That on or about the 13th day of February, 1955, the aforesaid N.A.A.C.P. held a meeting of the membership of

the Baton Rouge Branch in the Parish of East Baton Rouge.

XXV.

That on or about the 7th day of May, 1955, the aforesaid N.A.A.C.P., acting through defendant Doretha A. Combre, together with others, forwarded and presented to Honorable Robert F. Kennon, Governor, the members of the State Legislature and the members of the Louisiana State Board [fol. 5] of Education a petition requesting certain action on their parts, all in the Parish of East Baton Rouge.

XXVI.

That on or about the 22nd day of June, 1955, the Baton Rouge Branch of the said N.A.A.C.P., acting through one C. J. Gilliam, Chairman of the Administrative Committee, requested the East Baton Rouge Parish School Board to take certain actions, all in the Parish of East Baton Rouge, Louisiana.

XXVII.

That many additional meetings of the N.A.A.C.P. have been held in East Baton Rouge Parish and the local Baton Rouge Branch of said corporation maintains an office at 781 South 17th Street in the City of Baton Rouge.

XXVIII.

That these activities of said N.A.A.C.P. are so notorious and of such public and general knowledge that judicial notice thereof may be taken by this Honorable Court.

XXIX.

That many of the meetings herein described have been attended by some or all of the defendants herein named.

XXX.

That the named defendants, with the exception of defendant N.A.A.C.P., constitute most of the principal officers of the said N.A.A.C.P. in the State of Louisiana.

XXXI.

That the said N.A.A.C.P. has operated in the State of Louisiana under the guidance of and by virtue of the activities of the said defendants and others.

XXXII.

That the defendants have conspired together to hold [fol. 6] meetings and/or do other things on behalf of and as a function of the said N.A.A.C.P., all in the Parish of East Baton Rouge and/or the State of Louisiana, at one or more times during the past years.

XXXIII.

That in spite of the clear and unambiguous provision of L.R.S. 12:401, 402, 403 et sequentes, none of the defendants have ever filed with the Secretary of State of the State of Louisiana a list of the members of the said N.A.A.C.P. who live or reside in the State of Louisiana.

XXXIV.

That none of the lists required by the said L.R.S. 12:401, 402 and 403 have ever been filed with the Secretary of State of Louisiana by any representative of the N.A.A.C.P. in spite of the fact that the N.A.A.C.P. has been operating in the Parish of East Baton Rouge and/or the State of Louisiana and holding meetings therein for several years.

XXXV.

That each of the meetings and activities of the said N.A.A.C.P. above described have been committed in violation of the sections of the Revised Statutes of the State of Louisiana hereinabove referred to. That consequently the conduct of these meetings and the failure of the defendants herein named to file the required lists of members with the Secretary of State constitute offenses against this State.

XXXVI.

That in order to protect the State of Louisiana from the commission of further offenses in this regard and under the provisions of L.R.S. 12:405, it is necessary that this

Court permanently restrain and enjoin the defendants, their agents, employees and all other persons, firms or corporations acting or claiming to act on their behalf from holding [fol. 7] any meetings of officers and/or members of the said N.A.A.C.P. in the State of Louisiana and further restraining the said N.A.A.C.P. from conducting any business or acting as a corporation in the State of Louisiana.

XXXVII.

That petitioner fears that defendants will continue their unlawful activity; therefore, in order to protect the State of Louisiana from the commission of further offenses in this regard during the pendency of these proceedings, it is necessary that this Court issue a preliminary writ of injunction in the form and substance of the permanent injunction mentioned above.

XXXVIII.

That since this is a proceeding brought by and on behalf of the State of Louisiana, no bond need be furnished in connection with the issuance of any such injunction or restraining order.

XXXIX.

That under the provisions of L.R.S. 12:405, petitioner desires and is entitled to a decree dissolving defendant N.A.A.C.P. and each and every one of its branches or subdivisions in the State of Louisiana.

XL.

Petitioner annexes to this petition certain interrogatories on facts and articles which it desires the designated defendants to answer, under oath, categorically and in writing, in order to make use of their answers as testimony in support of plaintiff's demands.

XLI.

That defendant, the N.A.A.C.P., is not such a corporation as is required by law to appoint an agent for service of [fol. 8] process but has engaged in business activities in this state through acts performed by its agents or employees; hence, under the provisions of L.R.S. 13:3471

service of process on said N.A.A.C.P. may be made on any employee or agent of said corporation over the age of eighteen (18) years.

Wherefore, petitioner prays (1) that the defendants each be served with a copy of this petition and be duly cited to appear and answer it; (2) that the defendants be ordered to respond, under oath, categorically and in writing, to the interrogatories accompanying this petition within a delay to be fixed by the Court; (3) that a rule nisi issue herein commanding them and each of them to show cause on a date, not less than two nor more than ten days from service hereof, why a preliminary injunction should not issue herein, without bond, restraining them and each of them, their agents, employees and all other persons, firms or corporations acting or claiming to act on behalf of any of them from holding any meeting of any officers and/or members of the said N.A.A.C.P. in the State of Louisiana and further enjoining the said N.A.A.C.P. from conducting any business or acting as a corporation all in the State of Louisiana; (4) that upon the trial of said rule there be judgment in favor of the State of Louisiana and your relator and petitioner, granting said preliminary injunction; (5) that upon final trial hereof judgment be rendered in favor of petitioner and against defendants, and each of them, perpetuating the said preliminary writ of injunction and making it permanent in the form and substance hereinabove mentioned; (6) that there be judgment herein in favor of your petitioner and against defendant, the N.A.A.C.P., dissolving the said N.A.A.C.P. in the State of Louisiana and each and every subdivision or subordinate body thereof.

[fol. 9] Petitioner further prays for all necessary orders and decrees and for general and equitable relief.

Fred S. LeBlanc, Attorney General of the State of Louisiana, W. M. Shaw, Special Assistant Attorney General of the State of Louisiana, Sargent Pitcher, Jr., Of Counsel.

Duly sworn to by W. M. Shaw, jurat omitted in printing.

[fol. 10] Interrogations (omitted in printing).

[fol. 27]

IN THE 19TH JUDICIAL DISTRICT COURT
OF THE STATE OF LOUISIANA, IN AND FOR
THE PARISH OF EAST BATON ROUGE

ORDER TO SHOW CAUSE—March 1, 1956

Considering the verified petition filed herein:

It Is Ordered by the Court that the defendants, John G. Lewis, J. K. Haynes, T. J. Jemison, C. J. Gilliam, B. J. Stanley, Doretha A. Combre, R. B. Millspaugh, J. N. Stone, A. P. Tureaud, Sr., A. J. Chapital, Hasket Derby, Clarence Laws and the National Association for the Advancement of Colored People, show cause before this Court on the 19th day of March, 1956, at the hour of 10 o'clock, A.M., why a preliminary writ of injunction should not issue herein, without bond, restraining them and each of them, their agents, employees and all other persons, firms or corporations acting or claiming to act on behalf of any of them from holding any meeting of any officers and/or members of the said National Association for the Advancement of Colored People in the State of Louisiana and further enjoining the said National Association for the Advancement of Colored People from conducting any business or acting as a corporation all in the State of Louisiana during the pendency of these proceedings and, further, that on a hearing of said rule proof may be adduced by verified pleadings, supporting affidavits or by proof as in ordinary cases or by any or all of those methods at the election of the respective parties litigant.

It Is Further Ordered that the defendants, John G. Lewis, J. K. Haynes, T. J. Jemison, C. J. Gilliam, B. J. Stanley, Doretha A. Combre, R. B. Millspaugh, J. N. Stone, A. P. Tureaud, Sr., A. J. Chapital, Hasket Derby, Clarence Laws and the National Association for the Advancement of Colored People be and each of them is hereby ordered to [fol. 28] answer under oath categorically and in writing each of the questions put to him or it in the interrogatories accompanying the foregoing petition and file his or its answer to same with the Clerk of this Court within 15 days after service hereof.

Thus Done, Ordered and Signed in the City of Baton Rouge, Parish of East Baton Rouge, State of Louisiana, on this 1st day of March, 1956, at 10:40 o'clock, A.M.

Coleman Lindsey, Judge, 19th Judicial District Court.

[File endorsement omitted]

[fol. 29] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

STATE OF LOUISIANA, EX REL. FRED S. LEBLANC, Attorney General, Respondent,

versus

JOHN G. LEWIS, J. K. HAYNES, T. J. JEMISON, C. J. GILLIAM, B. J. STANLEY, DORETHA A. COMBRE, R. B. MILLSPAUGH, J. N. STONE, A. P. TUREAUD, SR., A. J. CHAPITAL, CLARENCE LAWS and the NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, Petitioners.

PETITION FOR REMOVAL—Filed March 28, 1956

To the Judges of the United States District Court for the Eastern District of Louisiana:

The petition of John G. Lewis, J. K. Haynes, T. J. Jemison, C. G. Gilliam, Doretha A. Combre, R. B. Millspaugh, J. N. Stone, A. P. Tureaud, Sr., A. J. Chapital, Clarence Laws and The National Association for the Advancement of Colored People respectfully shows:

1. On the first day of March, 1956 an action was commenced against petitioners in the 19th Judicial District Court for the Parish of East Baton Rouge, State of Louisiana, entitled State of Louisiana, ex rel. Fred S. LeBlanc, Attorney General, Plaintiff Against John G. Lewis, J. K. Haynes, T. J. Jemison, C. J. Gilliam, B. J. Stanley, Doretha

A. Combre, R. B. Millspaugh, J. N. Stone, A. P. Tureaud, Sr., A. J. Chapital, Hasket Derby, Clarence Laws and The National Association for the Advancement of Colored People, Defendants, Docket Number 55899.

2. Petitioner, The National Association for the Advancement of Colored People, has not been properly served as of this date. Petitioners, Clarence A. Laws, and A. J. Chapital were cited and served with copies of the complaint, a copy of which is annexed hereto, on March 17, 1956. The other petitioners were cited and served on various dates between March 1, 1956 and March 7, 1956.

3. Hearing was set in the 19th Judicial District Court of the State of Louisiana in and for the Parish of East Baton Rouge on March 19, 1956, but was continued to and until March 29, 1956. No further proceedings have been had herein.

[fol. 30] 4. The above described action is a civil action which may be removed to this Court by petitioners, defendants therein, pursuant to the provisions of Title 28, United States Code, 1443 (2), in that petitioners are being sued in the state court and threatened with infringement of their rights to equal civil rights for doing acts under color of authority derived from the Fourteenth Amendment to the Constitution of the United States, and Title 42, United States Code, Sections 1981 and 1983, and for refusing to comply with Louisiana Revised Statutes, Title 12:401 and 405 on the grounds that compliance with the aforesaid statute would be inconsistent with their rights under the Constitution and Laws of the United States hereinabove named.

5. Petitioners, John G. Lewis, J. K. Haynes, T. J. Jemison, C. J. Gilliam, Doretha A. Combre, R. B. Millspaugh, J. N. Stone, A. P. Tureaud, Sr., A. J. Chapital, and Clarence Laws, are citizens of the United States of Negro origin and residents of the State of Louisiana. They are or have been members of branches of the National Association for the Advancement of Colored People in the State of Louisiana, and through their activities in the aforesaid organization, they have sought to secure within the State of Louisiana the elimination of discrimination against Negro

Americans solely because of their color, and equal rights for all residents for this state in compliance with the Constitution and Laws of the United States, to wit; the elimination of racial segregation and discrimination in the various schools, colleges and universities operated and maintained by the state out of public funds, including the public schools of East Baton Rouge Parish, and the elimination of other forms of racial discrimination enforced by state officers against Negroes solely because of their race, pursuant to and under color of state law.

6. Petitioner, the National Association for the Advancement of Colored People, is a membership corporation organized under the laws of the State of New York, with unincorporated branches operating in various states throughout the United States, including the State of Louisiana. It is an organization whose primary purpose and function is to secure equal rights and justice for all Americans and to eliminate racial discrimination and injustice based upon race and color.

[fol. 31] 7. In the action which petitioners now seek to remove the state is attempting to invoke Louisiana Revised Statutes Title 12:401-405 against these petitioners in order to enjoin their lawful association together, their activities in the National Association for the Advancement of Colored People, and to dissolve that organization under the terms of the aforesaid statute all in violation of petitioners' rights guaranteed under the First and Fourteenth Amendments to the Constitution of the United States and under Title 42, United States Code, Sections 1981 and 1983. The purpose of this suit in the state court is to frustrate the efforts of these petitioners and other Negro residents of the State of Louisiana to secure their equal civil rights in compliance with the Constitution and laws of the United States.

8. Petitioners file herewith a bond with good and sufficient surety conditioned, as provided by Title 28, United States Code, Section 1446 (d), that they will pay all cost and disbursements incurred by reason of the removal proceedings hereby brought should it be determined that this action is not removable or is improperly removed.

Wherefore, Petitioners Pray that the above action now pending against them in the 19th Judicial District Court of the State of Louisiana in and for the Parish of East Baton Rouge, be removed therefrom to this Court.

A. P. Tureaud, A. M. Trudeau, Jr., 1821 Orleans Avenue, New Orleans 16, Louisiana; Alex L. Pitcher, Jr., 1501 East Blvd., Baton Rouge, Louisiana; Jesse N. Stone, Jr., 854½ Texas Avenue, Shreveport, Louisiana; Robert L. Carter, 20 West 40th Street, New York, New York, Attorneys for Petitioners.

March 28, 1956

[fol. 32] *Duly sworn to by A. P. Tureaud, jurat omitted in printing.*

Certificate of Service (omitted in printing).

[fol. 33]

IN THE 19TH JUDICIAL DISTRICT COURT
OF THE STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

No. 55,899 Division "D"

THE STATE OF LOUISIANA EX REL. FRED S. LEBLANC, Attorney General, Plaintiff,

v.

JOHN G. LEWIS, J. K. HAYNES, T. J. JEMISON, ET. AL., Defendants.

NOTICE OF FILING OF PETITION AND BOND FOR REMOVAL —March 28, 1956

To: Fred L. LeBlanc, Attorney General of the State of Louisiana; W. M. Shaw, Special Assistant Attorney General; and Sargent Pitcher, Jr., Attorneys for Plaintiff, State Capitol Building, Baton Rouge, Louisiana:

Please take notice that John G. Lewis, J. K. Haynes, T. J. Jemison, C. J. Gilliam, Doretha A. Combre, R. B. Millspaugh, J. N. Stone, A. P. Tureaud, Sr., A. J. Chapital, Clarence Laws and the National Association for the Advancement of Colored People, defendants in the above-entitled action, have this date filed their petition and bond for removal, copies of which are attached hereto in the Office of the Clerk of the United States District Court for the District (Eastern) Louisiana, Division at Baton Rouge.

Alex L. Pitcher, Jr., 1501 East Boulevard, Baton Rouge, Louisiana, Attorney for Defendants.

March 28, 1956

[fol. 34]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Minute Entry:

April 4th, 1956

No. 1678

Civil Action
B. R. D.

JOHN G. LEWIS, ET AL.,

versus

STATE OF LOUISIANA, EX REL. FRED S. LE BLANC, Attorney General.

MINUTE ENTRY OF ORDER DEFERRING ACTION ON APPLICATION FOR INJUNCTION—April 4, 1956

This cause came on this day to be heard on application of plaintiff for injunction.

Present:

A. P. Tureaud, Esq., Robert L. Carter, Esq., Alex Pitcher, Esq., Attorneys for Plaintiff.

Fred S. LeBlanc, Esq., W. M. Shaw, Esq., Attorneys for Defendants.

On motion of Fred S. LeBlanc—W. M. Shaw permitted to participate as counsel for defendants.

With reservation of certain jurisdictional objections on part of the defendants the matter was argued.

It Is Ordered by the Court that

Action on application for injunction be and the same is hereby deferred until the matter of propriety of issuance by the State Court of injunction is determined in state court proceedings.

Wright, J.

[fol. 47] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 8554

NEW ORLEANS BRANCH of the National Association for the Advancement of Colored People; NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, a corporation; ARTHUR J. CHAPITAL, SR.; ROBERT DELAHOUSSAYE; ESTELLE ADAMS; HUNTINGTON H. DUSUAU and CHARLES A. GARRETT, Plaintiffs,

VS.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana; JACK P. F. GREMILLION, Attorney General of Louisiana, and RICHARD A. DOWLING, District Attorney, Parish of Orleans, State of Louisiana, Defendants.

COMPLAINT—Filed November 24, 1958

I. (a) The jurisdiction of this Court is invoked under Title 28, United States Code, Section 1331. This action

arises under Article III and the Fourteenth Amendment, Section 1, of the Constitution of the United States, and the Act of Congress, Revised Statutes, Section 1977, derived from the Act of May 31, 1870, Chapter 14, Section 16, 16 Stat. 144 (Title 42, United States Code, Section 1981), as hereafter more fully appears. The matter in controversy, exclusive of interest and costs, exceeds the sum or value of Ten Thousand Dollars ($10,000.00).

(b) The jurisdiction of this Court is further invoked under Title 28, United States Code, Section 1343. This action is authorized by the Act of Congress, Revised Statutes, Section 1979, derived from the Act of April 20, 1871, Chapter 22, Section 1, 17 Stat. 13 (Title 42, United States Code, Section 1983), to be commenced by any citizen of the United States or other person within the jurisdiction thereof to redress the deprivation under color of state law, statute, ordinance, regulation, custom or usage of rights, privilege and immunities secured by the Fourteenth Amendment, Section 1, of the Constitution of the United States and by [fol. 48] the Act of Congress, Revised Statutes, Section 1977, derived from the Act of May 31, 1870, Chapter 14, Section 16, 16 Stat. 144 (Title 42, United States Code, Section 1981), providing for the equal rights of citizens and of all persons within the jurisdiction of the United States as hereafter more fully appears.

(c) The jurisdiction of this Court is further invoked under Title 28, United States Code, Sections 2281 and 2284. This is an action for an interlocutory injunction and a permanent injunction restraining the enforcement, operation and execution of LRS 12:401-409, inclusive, and LRS 14:385-388, inclusive, by restraining the actions of defendants, officers of the State of Louisiana, in the enforcement and execution of said statutes on the grounds that the enforcement, operation or execution of said statutes would deny rights which, by Article III and the Fourteenth Amendment, Section 1, of the Constitution of the United States, and Title 42, United States Code, Section 1981, are secured to plaintiffs, its members, contributors, voluntary workers and associates and persons requesting or receiving from plaintiffs assistance in any matter, case or proceeding involving an issue of racial segregation or discrimination.

II. Plaintiff, the National Association for the Advancement of Colored People, is a non-profit New York membership corporation organized and existing under the laws of the State of New York since 1911. Plaintiff's basic aim and purpose is to secure for American Negroes those rights guaranteed them by the Constitution and laws of the United States. In its Articles of Incorporation a copy of which is attached hereto as Exhibit A and made a part of this complaint, its principal objectives are described as follows:

> . . . voluntarily to promote equality of rights and eradicate caste or race prejudice among the citizens of the United States; to advance the interest of colored citizens; to secure for them impartial suffrage; and to increase their opportunities for securing justice in the courts, education for their children, employment according to their ability, and complete equality before the law.
>
> To ascertain and publish all facts bearing upon these subjects and to take any lawful action thereon; together with any kind and all things which may lawfully be done by a membership corporation organized under the laws of the State of New York for the further advancement of these objects.

[fol. 49] In accord with its charter and national constitution, plaintiff has chartered various branches in Louisiana, including plaintiff New Orleans Branch of the NAACP, for the purpose of carrying on the work of the organization in this state. These branches are independent unincorporated associations subject only to such control by plaintiff-corporation as is set out in the national constitution and constitution for branches. In addition to the various branches, plaintiff has approved the existence of a state-wide organization of branches known as the Louisiana State Conference of Branches, maintained by the branches, through which they seek to act in concert and to pool their resources on issues of statewide interest.

Plaintiffs, Arthur J. Chapital, Sr., Mrs. Estelle Adams, Robert Delahoussaye, Huntington H. Dusuau and Charles A. Garrett, are officers and members of the New Orleans

Branch of the NAACP who are seeking in their capacity to advance and further the interests of Negro citizens locally and to bring more democracy to the state.

III. By virtue of its activity throughout the 45 years of its existence in its effort to secure equal rights and equal opportunities for colored citizens in the United States, the plaintiff-National Association for the Advancement of Colored People has come to be regarded as the chief organization through which colored citizens of the United States and of the State of Louisiana may act to secure these rights guaranteed them by the Constitution and laws of the United States. It is a fact, generally known, that in matters where unconstitutional racial segregation or discrimination is involved, plaintiff encourages Negro citizens to assert their constitutional rights and, upon request, supports litigation to secure such rights without being a party thereto. It is also generally known that the high costs of resort to the courts are prohibitive for the average individual litigant to bear alone. Within the State of Louisiana it has been found that resort to the courts constitutes the most effective means available for securing equal rights and equal opportunities for colored citizens; and it has also been found that most of the plaintiff's popular support has come as a result [fol. 50] of a desire of people to associate themselves for the vindication of individual constitutional rights through education and, when necessary, litigation.

IV. Defendant, Wade O. Martin, Jr., is Secretary of State of the State of Louisiana, and is the official with whom the membership lists required by LRS 12:401-409, inclusive, and the affidavits required by LRS 14:385-388, inclusive, are to be filed. Defendants, Jack P. F. Gremillion, who is Attorney General of Louisiana, and Richard A. Dowling, who is District Attorney for the Parish of Orleans, State of Louisiana, are charged with the enforcement of LRS 12:401-409, inclusive, and LRS 14:385-388, inclusive. Each of the defendants is a citizen of the State of Louisiana.

V. LRS 12:401-409, inclusive, require every fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military or social organization, except for church and national guard organizations, to file with the Secretary of

State before December 31 of each year a complete list of the names and addresses of all the officers and members of the organization who are living in the state and members at the time the list is filed. Failure to comply is made a misdemeanor punishable by fine and imprisonment. Meetings are prohibited and attendance at such meetings made a criminal liability until and unless the membership list has been filed. District Attorneys throughout the state are charged with the duty of prosecuting violations of this Act.

LRS 14:385-388, inclusive, prohibits non-trading corporations, partnerships and associations engaged in social, educational or political activities from being affiliated with any foreign non-trading corporation, partnership or association of persons where any of the officers or members of the Board of Directors are members of Communist, Communist-front or subversive organizations as cited by the House of Congress Un-American Activities Committee or the United States Attorney General. Reports from files of the Committee on Un-American Activities constitute prima facie evidence of such membership in said organizations. As a condition to operating in this state, any organization en- [fol. 51] gaged in social, educational or political activities affiliated with any other foreign corporation, partnership or association as is the plaintiff, the New Orleans Branch of the NAACP, is required to file by December 31 of each year an affidavit with the Secretary of State attesting to the fact that none of the officers of the aforesaid foreign corporation, partnership or association is a member of any organization cited by the Un-American Activities Committee or the United States Attorney General as Communist, Communist-front or subversive. Failure to file such an affidavit is deemed a misdemeanor, subjecting the officers of such affiliated local organization to fine and imprisonment; and the filing of a false affidavit constitutes perjury punishable pursuant to the provisions of LRS 14:123.

VI. Enforcement of LRS 12:401-409, inclusive, and LRS 14:385-388, inclusive, are a part and parcel of a plan to preserve racial segregation in the public schools and in other places of public accommodation. From the date of the decisions of the United States Supreme Court in the School Segregation Cases, the legislative and executive depart-

ments of this state have concentrated upon devising ways and means of preventing the enforcement of that decision barring racial segregation in public education as contrary to the mandate of the Fourteenth Amendment.

The aforesaid statutes of the State of Louisiana are part of a consistent scheme and plan of the legislature of the State of Louisiana enacted in conjunction with other acts of the Louisiana Legislature for 1956, to-wit: Act No. 248 which penalizes bus operators for performing any act toward bringing about integration of the races in the public school system or any public institution of higher learning in Louisiana; Act No. 250 which provides for removal of employees for advocating or performing any such act; Act No. 252 which also applies to permanent teachers; Act No. 319 which provides for exclusive use of school facilities by white and Negro children and which provides that white teachers shall teach only white children; Act No. 28 which makes provision to suspend compulsory school attendance laws in racially integrated schools; Act No. 395 which provides that employers furnish separate facilities for white [fol. 52] and Negro employees; Act No. 579 which prohibits interracial social and athletic activities; Act No. 14 which provides for separate parks and recreational facilities for members of the white and Negro races; and Act No. 27 which provides for separate accommodations for white and colored passengers in intrastate travel.

The Louisiana Legislature of 1958 adopted more acts to prevent public school desegregation, to-wit:

Act No. 187 which provides that per diem, salary, etc., which may become due to any state or local school employee shall be maintained during the time necessarily spent by such persons away from his duties, due to Federal action relating to integration of the races; Act No. 256 which authorizes the Governor to close any racially mixed public school under court order to racially mix its student body, and also authorizes the Governor to protect all such school property and the rights and emoluments due its employees; Act No. 259 which provides for the assignment of pupils and further provides (Section 7) that no child shall be compelled to attend any school in which the races are commingled; Act No. 256 which authorizes the Governor to

close racially mixed schools; Act No. 258 which authorizes expense grants for children attending non-sectarian, non-public schools where no racially separate public school is provided; and Act No. 257 which authorizes the establishment of educational cooperatives.

By these activities and legislative enactments, the executive and legislative departments of the State of Louisiana have sought to continue racial segregation in public schools and in other public facilities and by enforcing or threatening to enforce LRS 12:401-409, inclusive, and LRS 14:385-388, inclusive, against plaintiffs, the state seeks to deter citizens from participating in the plaintiff-organization and its activities which are designed to secure compliance with the United States Supreme Court's decisions barring racial discrimination in the use of public facilities and to challenge continued racially discriminatory practices in the courts—all in direct violation of plaintiffs' rights to access [fol. 53] to the courts under Article III and to due process and equal protection of the laws secured under the Fourteenth Amendment to the Constitution of the United States.

VII. The requirement that plaintiff's Louisiana affiliates file with the Secretary of State a list of the names and addresses of all officers and members is clearly a deterrent to its continued functioning as an organization in this state. The present climate of opinion in this state, as evidenced by the recital set out in paragraph VI herein, is clearly hostile to the plaintiff-organization, its members and the ideas it espouses. Plaintiff, as one of the chief civil rights organizations in the United States, has aided Louisiana citizens to vindicate their right to freedom from racially discriminatory practices in the payment of public school teachers' salaries, the availability of equal educational facilities, discrimination in voting, etc. Plaintiff is supported largely by memberships and contributions, and many of these persons who have been affiliated with plaintiff do not feel they can publicly be so identified because of the fear that such public identification could lead to intimidation and harassment, both physical and economic. The enforcement of LRS 12:401-409, inclusive, therefore, constitutes a violation of plaintiff's and its members' rights of freedom of speech and association and access to the courts, and con-

stitutes a deprivation of property without due process of law in respect to the plaintiff-organization and affiliates since enforcement and threatened enforcement of the statute has resulted in a loss to them of memberships and funds.

VIII. Plaintiff is advised and alleges that any enforcement of LRS 12:401-409, inclusive or 14:385-388, inclusive, against plaintiff, its local affiliates or official of any local branch or chapter would constitute a deprivation of rights of freedom of speech and association, equal protection of the laws, due process of law and access to the courts—all secured against state encroachment by Article III and the Fourteenth Amendment to the Constitution of the United States.

IX. Plaintiff, the New Orleans Branch of the NAACP, complied with LRS 12:401-409, inclusive, by submitting to [fol. 54] the Secretary of State the names and addresses of its members. Since such compliance, its membership has fallen off steadily, and it has become increasingly difficult to renew old memberships each year and to recruit new members. Plaintiffs, the National Association for the Advancement of Colored People and the New Orleans Branch of the NAACP, have been deprived of property in respect to members, contributions and funds—all in violation of due process and equal protection of the laws secured against state encroachment by the Fourteenth Amendment to the Constitution of the United States. Continued compliance therefore or threat of enforcement of LRS 12:401-409, inclusive, would deprive plaintiffs of due process of law, itself and its members of freedom of speech and assembly, all in violation of the Fourteenth Amendment.

X. The enforcement and threat of enforcement of LRS 14:385-388, inclusive, against plaintiffs Arthur J. Chapital, Sr., Robert Delahoussaye, Mrs. Estelle Adams, Huntington H. Dusuau and Charles A. Garrett, as officers and members of the New Orleans Branch of the NAACP, requiring them to swear that no member of the NAACP National Board belongs to an organization cited by the Un-American Activities Committee places an unconstitutional burden upon them and upon their right of freedom of association as well as access to the courts and places an unconstitutional

condition upon the New Orleans Branch's right to engage in lawful activities in Louisiana—all in deprivation of Fourteenth Amendment rights.

XI. Other than by injunction, plaintiffs have no adequate remedy to protect their members or officers from unwarranted interference by state officials or their property from deprivation without due process of law. Other than by injunction, no adequate remedy is available to the plaintiffs, affiliates, members, contributors, voluntary workers or associates to avoid fruitless inquiry into and assault upon the beliefs, expressions and associations of persons who are or may be in accord with and inclined to support the plaintiffs' lawful, although dissident, purposes. The mere threat of being identified as a member in plaintiff-organization, which the statutes pose, is calculated to deter and has deterred citizens from joining, supporting or in any way [fol. 55] permitting themselves to become associated with the plaintiffs. The mere threat of being subjected to punishment because of the associations and affiliations of persons, who are members of the National Board of Directors of the National Association for the Advancement of Colored People, whose association and affiliations the parties being threatened with punishment cannot control, constitutes a denial of freedom of speech and association in violation of Fourteenth Amendment rights. LRS 12:401-409, inclusive, and LRS 14:385-388, inclusive, threaten to deter and have deterred financial support for and membership in plaintiff-organization and thus to destroy the effectiveness of the plaintiffs in accomplishing their aims and objectives. Plaintiffs have suffered and are threatened with further irreparable injury for which no adequate remedy at law exists.

Wherefore, plaintiffs respectfully pray that, upon the filing of this complaint, a District Court of three judges be convened as required by law and, as may appear just and proper, an interlocutory injunction and a permanent injunction be entered restraining and enjoining defendants, and each of them, their agents, successors in office and all persons acting in concert with them from (1) in any way enforcing, executing or proceeding against the plaintiffs,

their affiliates, officers, members, contributors, voluntary workers, or any of them, under the provisions of LRS 12:401-409, inclusive, or LRS 14:385-388, inclusive, in such manner as to compel (a) disclosure of the names or addresses of any member of the National Association for the Advancement of Colored People in Louisiana as required by LRS 12:401-409, inclusive; or (b) the submission of any affidavit by any officer of any NAACP affiliate in Louisiana as required by the provisions of LRS 14:385-388, inclusive; or (c) enforcement of any penalties against plaintiffs, any member, officer or contributors for failure to do either (a) or (b).

A. P. Tureaud, A. M. Trudeau, Jr., Ernest N. Morial, 1821 Orleans Avenue, New Orleans 16, Louisiana; Robert L. Carter, 20 West 40th Street, New York 18, New York, Attorneys for Plaintiffs.

[fol. 56] State of Louisiana
Parish of Orleans

A. P. Tureaud, being by me first duly sworn, deposed and said that he is one of the attorneys for plaintiffs in the above and foregoing complaint; that he has read the same and that all of the facts and allegations contained therein are true and correct to the best of his information and belief.

A. P. Tureaud

Sworn to and subscribed before me this 24th day of November 1958.

Ernest N. Morial, Notary Public.

ORDER

On further consideration of this cause:

It Is Ordered by the Court that the application for interlocutory injunction in the above-entitled cause be fixed for hearing at New Orleans, Louisiana, on

New Orleans, La.

....., Judge.

[fol. 57]

EXHIBIT A TO COMPLAINT

UNITED STATES OF AMERICA

STATE OF NEW YORK

by

CARMINE G. DESAPIO

Secretary of State and Custodian of the Great Seal Thereof.

IT IS HEREBY CERTIFIED, *That SAMUEL LONDON was, on the day of the date of the annexed Certificate and Attestation, Deputy Secretary of State of the State of New York, duly authorized by the laws of said State to make the same and to perform the duties belonging to the Secretary of State in relation thereto, in like manner as said Secretary of State; that such Certificate and Attestation are in due form and executed by the proper officer; that the seal affixed to said Certificate and Attestation is the Official Seal of the Department of State of the State of New York; that the signature thereto of the said Deputy Secretary of State is in his own proper handwriting and is genuine and that full faith and credit may and ought to be given to his official acts, and, further, that the Secretary of State is the Custodian of the* original Certificate of Incorporation *so certified and attested and Custodian of the Great Seal of said State, hereunto affixed.*

[Seal]

IN TESTIMONY WHEREOF, *The Great Seal of the State is hereunto affixed.*

WITNESS *my hand at the City of Albany, the* eighth *day of* November, *in the year of our Lord one thousand nine hundred fifty-*six.

/s/ CARMINE G. DESAPIO
Secretary of State

J D By /s/ FRANK A. EMNIA
Deputy Secretary of State

[fol. 58]

SUPREME COURT—NEW YORK COUNTY

In the Matter of

the

CERTIFICATE OF INCORPORATION

of

The NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

State of New York

ss

County of New York

C. Ames Brooks being duly sworn deposes and says that he is an attorney at law with offices at No. 43 Cedar St., New York City and that he is one of the attorneys for the National Association for the Advancement of Colored People, that no previous application has been made for the approval of the annexed certificate of incorporation of the National Association for the Advancement of Colored People.

/s/ C. AMES BROOKS

Sworn to before me this
6th day of June 1911

JAS. L. McVEIRNY
Notary Public
New York County

[Seal]

[fol. 59]

CERTIFICATE OF INCORPORATION

—of the—

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE.

We, the undersigned, being of full age and desirous of associating ourselves together for the purposes herein below specified, pursuant to and in conformity with the Acts of the Legislature of the State of New York relating to membership corporations, do hereby certify and declare that we *citizens and residents of the United States and* are of full age and two-thirds of us ^ residents of the State of New York, and further as follows:—

That the principal objects for which the corporation is *voluntarily* formed are ^ to promote equality of rights and eradicate caste or race prejudice among the citizens of the United States; to advance the interest of colored citizens; to secure for them impartial suffrage; and to increase their opportunities for securing justice in the courts, education for their children, employment according to their ability, and complete equality before the law.

To ascertain and publish all facts bearing upon these subjects and to take any lawful action thereon; together with any and all things which may lawfully be done by a membership corporation organized under the laws of the State of New York for the further advancement of these objects.

To take, receive, hold, convey, mortgage or assign all such real estate and personal property as may be necessary for the purposes of the corporation.

The corporate name by which the corporation shall be [fol. 60] known is

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE.

The territory in which the operations of the corporation are principally to be conducted shall be the United States of America.

Italicized material handwritten.

The principal office of the corporation and the center of its operations shall be in the City, County and State of New York, but the Directors may establish branch or auxiliary offices elsewhere in the United States for the purpose of carrying on the work of the corporation, each to be managed by its local organization under such powers as lawfully may be prescribed in the by-laws of the corporation.

The principal office of the corporation shall be in the Borough of Manhattan, in the City, County and State of New York.

The number of directors of the corporation shall be thirty.

The names and places of residence of the persons to be directors of the corporation until its first annual meeting are as follows:—

Mr. Moorfield Storey, 735 Exchange Bldg., Boston, Mass.;
Mr. John E. Milholland, Hotel Manhattan, New York, N.Y.;
Bishop Alexander Walters, 208 W. 349 St., New York, N.Y.;
Oswald Garrison Villard, 20 Vesey St., New York, N.Y.;
Mr. Walter E. Sachs, 60 Wall St., New York, N.Y.;
Dr. William E. B. DuBois, 233 W. 63rd St., New York, N.Y.;
Mary White Ovington, Hotel St. George, Brooklyn, N.Y.;
Rev. William H. Brooks, 231 West 53rd St., New York, N.Y.;
Dr. John Lovejoy Elliott, Ethical Culture Society, New York
Mr. Thomas Ewing, Jr., 67 Wall St., New York, N.Y.
Rev. John Haynes Holmes, 28 Garden Place, Brooklyn, N.Y.;
Mrs. Florence Kelley, 105 E. 22nd St., New York, N.Y.;
Mr. Paul Kennaday, 640 Madison Avenue, New York, N.Y.;
Mrs. Frances R. Keyser, 217 E. 86th St., New York, N.Y.;
Mrs. Mary D. McLean, 259 W. 92nd St., New York, N.Y.;
Rev. A. Clayton Powell, 255 W. 134th St., New York, N.Y.;
Mr. Charles Edward Russell, Hotel Broztell, New York, N.Y.;
Prof. Joel E. Spingarn, 9 W. 73rd St., New York, N.Y.;
Miss Lillian D. Wald, 265 Henry St., New York, N.Y.;
Mr. William English Walling, Hotel Brevoort, New York, N.Y.
Dr. Owen M. Waller, 762 Herkimer St., Brooklyn, N.Y.

Mr. W. I. Bulkley, Ridgefield Park, N.J.
Mr. Albert E. Pillsbury, 6 Beacon St., Boston, Mass.;
Miss Jane Addams, Hull House, Chicago, Ill.;
Mrs. Ida B. Wells Barnett, 3235 Rhodes Ave., Chicago, Ill.;
[fol. 61] Dr. Charles E. Bentley, 100 State St., Chicago, Ill.;
Dr. Noah F. Mossell, 143 Lombard St., Philadelphia, Pa.
Dr. William A. Sinclair, 1221 Pine St., Philadelphia, Pa.;
Mrs. Mary Church Terrell, 326 T St., N.W. Washington, D.C.
Rev. J. Milton Waldron, 1334 V St., Washington, D.C.

The annual meeting of the corporation shall be held on the first Monday of January in each year.

In Testimony Whereof, we have made and signed this certificate in duplicate and have hereunto set our hands and affixed our respective seals this 25th day of May, 1911.

/s/ John Haynes Holmes (L.S.)
/s/ Oswald Garrison Villard (L.S.)
/s/ W. E. B. DuBois (L.S.)
/s/ Walter E. Sachs (L.S.)
/s/ Mary White Ovington (L.S.)

State of New York)
:ss:
County of New York)

On this 25th day of May, 1911, before me personally came Oswald Garrison Villard Walter E. Sachs & Mary White Ovington to me known, and known to me to be the individuals described in and who executed the foregoing instrument, and they acknowledged to me that they executed the same.

/s/ H. C. Wood
Notary Public, #27
Kings County.
Cert. filed in N Y Ct

[fol. 62]
STATE OF NEW YORK)
:ss:
COUNTY OF NEW YORK)

On this 30th day of May, 1911, before me personally came JOHN HAYNES HOLMES and W. E. B. DuBois to me known, and known to me to be the individuals described in and who executed the foregoing instrument, and they acknowledged to me that they executed the same.

/s/ H. C. WOOD
Notary Public, #27
Kings County.
Cert. filed in N Y Ct

I, DANIEL F. COHALAN Justice of the Supreme Court of the State of New York in and for the First Judicial District, DO HEREBY APPROVE, the form of Certificate of Incorporation, and consent that the same be filed.

Dated, New York, June 9th, 1911.

/s/ DANIEL F. COHALAN
Justice of the Supreme Court,
First Judicial District.

[Seal]

[fol. 63]

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M.L.H.
GCP

CERTIFICATE OF INCORPORATION

—of the—

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE.

STATE OF NEW YORK,
Office of SECRETARY OF STATE,

Filed and
Recorded JUN 16 1911

/s/ EDWARD LAZANSKY
Secretary of State

WHERRY & MORGAN
ATTORNEYS
OFFICE AND POST OFFICE ADDRESS
43 CEDAR STREET
NEW YORK CITY, N. Y.

STATE OF NEW YORK)
ss.:
DEPARTMENT OF STATE)

I CERTIFY That I have compared the preceding copy with the original Certificate of Incorporation of

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,

filed in this department on the 16th day of June, 1911, and that such copy is a correct transcript therefrom and of the whole of such original.

WITNESS my hand and the official seal of the Department of State at the City of Albany, this eighth day of November, one thousand nine hundred and fifty-six.

/s/ SAMUEL LANDON
ELG *Deputy Secretary of State.*

[SEAL]

[fol. 64] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 8554

NEW ORLEANS BRANCH of the National Association for the Advancement of Colored People; NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, a corporation; ARTHUR J. CHAPITAL, SR.; ROBERT DELAHOUSSAYE; ESTELLE ADAMS; HUNTINGTON H. DUSUAU and CHARLES A. GARRETT, Plaintiffs,

vs.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana; JACK P. F. GREMILLION, Attorney General of Louisiana, and RICHARD A. DOWLING, District Attorney, Parish of Orleans, State of Louisiana, Defendants.

ANSWER—Filed December 22, 1958

Defendants, Wade O. Martin, Jr., Secretary of State, State of Louisiana; Jack P. F. Gremillion, Attorney General of Louisiana, and Richard A. Dowling, District Attorney, Parish of Orleans, State of Louisiana, with full reservation of rights under defenses plead herein, answers plaintiffs' complaint as follows:

First Defense

That the Court lacks jurisdiction over the subject matter herein.

Second Defense

That the plaintiff corporation and association herein are attempting to enforce rights personal to the parties and which may be exercised only by them.

Third Defense

That the plaintiffs failed to state a claim upon which relief can be granted.

[fol. 65] Fourth Defense

1.

Defendants deny the allegations of Paragraph 1, Sections (a), (b) and (c) of plaintiffs' petition.

2.

Defendants, for lack of sufficient information to justify belief, deny the allegations contained in Paragraph 2 of plaintiffs' petition.

3.

Defendants, for lack of sufficient information to justify belief, deny the allegations contained in Paragraph 3 of plaintiffs' petition.

4.

Defendants admit that Wade O. Martin, Jr., is Secretary of State, that Jack P. F. Gremillion is Attorney General of Louisiana and that Richard A. Dowling is District Attorney for the Parish of Orleans and that all three are citizens of the State of Louisiana, and further aver that the duties of these officials as set forth are a matter of law and not necessary for defendants herein to answer.

5.

Defendants aver that Paragraph 5 is a mere statement of plaintiffs' interpretation of the law and that it requires no answer since the statute itself is the best proof.

6.

Defendants deny the allegations contained in Paragraph 6.

7.

Defendants deny the allegations contained in Paragraph 7.

8.

Defendants deny the allegations contained in Paragraph 8.

[fol. 66] 9.

Defendants admit that plaintiffs' New Orleans Branch of the NAACP filed said list, however, denies the remaining allegations contained in this paragraph.

10.

Defendants deny the allegations contained in Paragraph 10.

11.

Defendants deny the allegations contained in Paragraph 11.

WHEREFORE, defendants pray that plaintiffs' demands be rejected and this action be dismissed with costs.

Jack P. F. Gremillion, by W. P. Schuler, Attorney General, George M. Ponder, First Assistant Attorney General, William P. Schuler, Assistant Attorney General.

[fol. 67]
State of Louisiana
Parish of Orleans

Before me, the undersigned authority, personally appeared WILLIAM P. SCHULER who, being by me first duly sworn, did depose and say:

That he is one of the attorneys for the defendants in the above numbered and entitled matter and that all of

the allegations contained in this Answer are true and correct to the best of his knowledge, information and belief.

William P. Schuler

Sworn to and subscribed before me
this 28th day of October 1959.

Nelson B. Jones
Deputy Clerk
U. S. D. C.

(Seal)

CERTIFICATE

I hereby certify that a copy of the above and foregoing answer was served on attorney for plaintiffs herein, Mr. A. P. Tureaud, at his offices at 1821 Orleans Avenue, New Orleans, Louisiana, by placing the same in the United States Mail with sufficient postage thereto affixed.

New Orleans, Louisiana, this 19th day of December 1958.

William P. Schuler

[fol. 68] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

No. 1678

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, ATTORNEY GENERAL, Plaintiff-Respondent,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL., Defendants-Petitioners.

No. 8554

NEW ORLEANS BRANCH of the National Association for the Advancement of Colored People, et al., Plaintiffs,

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al., Defendants.

MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION—Filed October 21, 1959

The National Association for the Advancement of Colored People, a New York corporation, a defendant in Docket No. 1678, now pending in this Court on a petition for removal from the Nineteenth Judicial District Court in and for the Parish of East Baton Rouge, Louisiana, and plaintiffs in Docket No. 8554 in this Court, moves this Court to enter a temporary restraining order and prelimi-
[fol. 69] nary injunction against Jack P. F. Gremillion, Attorney General of the State of Louisiana, his successors in office, agents, employees, and all others in active concert and participation with him, restraining and enjoining the further prosecution of case styled State of Louisiana

Ex Rel. Jack P. F. Gremillion, Attorney General, v. Shreveport Branch, National Association for the Advancement of Colored People, et al., Docket No. 141,252, now pending in the First Judicial District Court for the Parish of Caddo in the State of Louisiana, or in any court of the State of Louisiana, or any similar action against the movant, pending the final determination in this Court of the above-entitled causes; and, as grounds for this motion submit:

1. The jurisdiction of the Court is invoked herein pursuant to Title 28, United States Code, Section 2283, in that the relief sought is necessary in aid of this Court's jurisdiction and to protect and enforce its judgments.

2. On March 1, 1956, action was commenced against the National Association for the Advancement of Colored People in the Nineteenth Judicial District Court for the Parish of East Baton Rouge by the Attorney General of the State of Louisiana. A petition for removal was filed in this Court and styled Civil Action No. 1678. Pending hearing on the petition, the state court heard the cause and issued a permanent injunction. On April 9, 1956, this Court issued an order deferring decision on the petition for removal and on the application to enjoin the state from proceeding further until this Court had determined its jurisdiction until the propriety of the issuance by the state court of the injunction at issue had been determined in state proceedings. Subsequently, the Court of Appeals for the First Circuit of the State held the injunction null and void and the proceedings in the state court were a nullity. [fol. 70] This decision is reported at 90 So. 2d 884. The statute involved in this proceeding was the application of LSA-R-S-12:401. Petition for removal was sought pursuant to the provisions of Title 28, United States Code, Section 1443, and is still pending for determination in this Court.

3. In November, 1958, proceedings were instituted in this Court in an action entitled New Orleans Branch of the National Association for the Advancement of Colored People, et al., v. Wade O. Martin, Jr., Secretary, et al., Civil Action No. 8554, in which this Court's jurisdiction was invoked under Title 28, United States Code, Sections

1331, 1343 and 2281 and 2284, in which an injunction was sought seeking to enjoin the enforcement of LSA-R-S 12:401-409 and LSA-R-S 14:385-388 on the ground of the unconstitutionality of those statutes as being in violation of the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States. Hence there is pending in this Court against the Attorney General a proceeding involving the constitutionality and enforcement of LSA-R-S 12:401 and LSA-R-S 14:385, the same statutes which are involved in the action which is presently pending in the First District Court for the Parish of Caddo, State of Louisiana.

4. Notwithstanding this Court has acquired jurisdiction and there are still pending for determination Civil Action No. 1678 and Civil Action No. 8554, the Attorney General of Louisiana, upon his complaint filed on October 9, 1959, in the First Judicial District Court for the Parish of Caddo has procured the issuance of a temporary restraining order by said court against the movants for failure to comply with the provisions of LSA-R-S 12:401 et seq. and LSA-R-S 14:385 et seq. Copies of said complaint and temporary restraining order are attached hereto as Exhibits A and B. Hearing on the temporary restraining order therein entered was postponed from October 14, 1959, [fol. 71] to October 22, 1959, to October 29, 1959.

5. The parties and the subject matter involved in the pending proceeding in the First Judicial District Court for the Parish of Caddo are the same as those involved in the above-entitled causes now pending for determination in this Court, and/or the disposition of the cases pending in this Court will or may be determinative of the pending proceeding in the First Judicial District Court for the Parish of Caddo.

6. The rights of the movant under the Constitution and laws of the United States and the jurisdiction of this Court to hear and determine the issues involving those rights as raised in the cases now pending in this Court are impaired and/or threatened with impairment by any further proceedings in the case now pending in the First Judicial

District Court for the Parish of Caddo, or any similar action which might be instituted in any court of the State of Louisiana.

WHEREFORE, pending the final determination of the above-entitled causes, movant prays:

1. That this Court issue a temporary restraining order, restraining and enjoining Jack P. F. Gremillion, the Attorney General of the State of Louisiana, his successors in office, agents, employees and all others in active concert and participation with him from further prosecuting State Ex Rel. Jack P. F. Gremillion, Attorney General v. Shreveport Branch, National Association for the Advancement of Colored People, et al., in the First Judicial District Court, Caddo Parish, Louisiana, and from instituting or prosecuting against the movant in any court of the State of Louisiana any action arising out of or pursuant to LSA-R-S 12:401 et seq. and LSA-R-S 14:385 et seq., pending hearing [fol. 72] and determination of the motion for a preliminary injunction, on the ground that immediate and irreparable injury, loss and damage to movant and impairment of this Court's jurisdiction will result before notice can be served and a hearing had thereon, as more fully appears from the affidavit of Arthur J. Chapital, Sr., President of the New Orleans Branch of the National Association for the Advancement of Colored People, and the exhibits attached hereto.

2. That this Court, upon notice and hearing after issuance of the temporary restraining order as prayed for, supra, issue a preliminary injunction against the same parties and to the same effect as the temporary restraining order.

3. And for such other and further relief as to the Court may seem just and proper.

A. P. Tureaud, 1821 Orleans Avenue, New Orleans, Louisiana, Jesse Stone, 854½ Texas Avenue, Shreveport, Louisiana, Robert L. Carter, 20 West 40th Street, New York, New York, Frank D. Reeves, 473 Florida Avenue, N.W., Washington, D. C., Attorneys for Defendants-Petitioners (No. 1678) and Defendants (No. 8554).

[fol. 73] ATTACHMENT TO MOTION

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

No. 1678

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, ATTORNEY GENERAL, Plaintiff-Respondent,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL., Defendants-Petitioners.

No. 8554

NEW ORLEANS BRANCH of the National Association for the Advancement of Colored People, et al., Plaintiffs,

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al., Defendants.

State of Louisiana)
)
Parish of Orleans)
)
City of New Orleans)

AFFIDAVIT

Arthur J. Chapital, Sr., after being duly sworn, deposes and says:

1. That he is the President of the New Orleans Branch of the National Association for the Advancement of Colored People.

2. That Civil Action No. 8554 was commenced in order to determine the constitutional validity of LSA-R-S 12:401 et seq and LSA-R-S 14:385 et seq and the application of these statutes to the activities of the National Association for the Advancement of Colored People in Louisiana and [fol. 74] to the officers and members thereof who are seeking in this State to carry out the aims and objectives of the National Association for the Advancement of Colored People, and on the advice of counsel that these aforesaid statutes seem in direct conflict with the rationale of *National Association for the Advancement of Colored People* v. *Alabama*, 357 U. S. 449.

3. That while this matter was pending in this Court, the Attorney General secured an order from state courts restraining and barring all activities of the National Association for the Advancement of Colored People in this State. This has caused irreparable injury. It has required the organization to cancel a statewide conference which was scheduled for October 9-11, 1959, at Shreveport, Louisiana. It has required the organization to cancel and cease all efforts to obtain memberships and public financial support in the State, and places members and prospective members in fear that association with the National Association for the Advancement of Colored People will lead to public disclosure of their names and addresses and such disclosure is all too liable to result in intimidation and reprisals.

4. That thus the present action of the Attorney General in the state court stymies the activities of the National Association for the Advancement of Colored People, and threatens the organization with loss of membership, finances and support. The irreparable damage hereby inflicted, it is important to note, will occur even though claim of the statutes invalidity may be ultimately upheld by the courts.

/s/ Arthur J. Chapital, Sr.
Arthur J. Chapital, Sr.

Sworn to before me this
21st day of October, 1959.

/s/ Ernest N. Morial

[fol. 75]

EXHIBIT "A" TO MOTION

No. 141252

FIRST JUDICIAL DISTRICT COURT
CADDO PARISH, LOUISIANA

STATE EX REL. JACK P. F. GREMILLION,
ATTORNEY GENERAL

VS.

SHREVEPORT BRANCH, NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF COLORED PEOPLE ET AL.

TO THE HONORABLE JUDGES OF THE FIRST JUDICIAL DISTRICT COURT IN AND FOR CADDO PARISH, LOUISIANA:

The petition of the State of Louisiana on relation of its duly qualified, acting and elected Attorney General, JACK P. F. GREMILLION, and GEORGE M. POUNDER, 1st Assistant Attorney General, respectfully represents:

1.

That the defendant, the National Association for the Advancement of Colored People (hereinafter referred to simply as the NAACP and/or "said corporation"), is a non-profit, non-resident, membership corporation, organized under the laws of the State of New York.

2.

That the aforesaid NAACP, and the hereinafter described Louisiana State Conference of Branches of the NAACP, and the hereinafter described Shreveport Branch NAACP, are each one a "fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes," within the scope and meaning of R.S. 12:401 et seq, and are each one engaged in social and educational acitivities, and the

said two latter designated defendants are each affiliated with the defendant named in paragraph one hereinabove.

3.

That the defendant, John A. Morsell, a resident of and domiciled in the City of New York, State of New York, is the Assistant to the Executive Secretary of the said NAACP, and a member and an officer of said corporation.

[fol. 76]

4.

That upon information and belief it is alleged that the defendant, Clarence Laws, is a resident of and domiciled in the State of Arkansas; that the said Clarence Laws is a Field Secretary for the NAACP and a member and officer of said corporation.

5.

That upon information and belief it is alleged that the defendant, Daniel E. Byrd, is a resident of and domiciled in the State of Louisiana; that the said Daniel E. Byrd is a member of the NAACP Legal Defense Fund and a member and an officer of said corporation.

6.

That the defendant, Edwin C. Washington, Jr., a resident of and domiciled in the City of Dallas, State of Texas, is a Field Secretary for the NAACP and a member and an officer of said corporation.

7.

That upon information and belief it is alleged that the defendant, W. C. Patton, is a resident of and domiciled in the State of New York; that the said W. C. Patton is Assistant to the NAACP Registration Director and a member of said corporation.

8.

That the defendant, the Louisiana State Conference of Branches of the NAACP, is an unincorporated association

and is a subdivision or subordinate body of the hereinabove described NAACP, and is composed of the several branches of the said national organization located within the State of Louisiana.

9.

That the defendant, Doretha A. Combre, a resident of and domiciled in the City of Lake Charles, Parish of Calcasieu, State of Louisiana, is President of the Louisiana State Conference of Branches of the NAACP and is a member and an officer of said corporation.

[fol. 77] 10.

That the defendant, A. J. Chapital, Sr., a resident of and domiciled in Orleans Parish, Louisiana, is Vice-President of the Louisiana State Conference of Branches of the NAACP and a member of said corporation.

11.

That the defendant, Marietta T. Brown, a resident of and domiciled in Calcasieu Parish, Louisiana, is Secretary of the Louisiana State Conference of Branches of the NAACP and a member of said corporation.

12.

That the defendant, Lawrence Conley, a resident of and domiciled in Calcasieu Parish, Louisiana, is Treasurer of the Louisiana State Conference of Branches of the NAACP and a member of said corporation.

13.

That the defendant, the Shreveport Branch NAACP, is a voluntary unincorporated association of individuals who are members of the hereinabove described NAACP, and is a subdivision or subordinate body of said organization, having its official office at Municipal No. 1459 Murphy Street, in Shreveport, Caddo Parish, Louisiana.

14.

That the following named defendants are all residents of and domiciled in Caddo Parish, Louisiana, and hold the following offices in the Shreveport Branch NAACP, to-wit:

R. L. Williams, President;
Madeline (Mandale) Brewer, a Secretary;
Emily McDonald, a Secretary;
John S. Thompson, Treasurer; and
Ellis Taylor, Chaplain,

and all of these five defendants are members of the hereinabove described NAACP.

[fol. 78]. 15.

That the defendants enumerated in paragraphs 9, 10, 11, 12, and 14, as stated therein, are officers of the Louisiana State Conference of Branches of the NAACP and Shreveport Branch NAACP all of which said unincorporated associations are engaged in the same social and educational activities as are engaged in by the defendant named in paragraph one hereof, with whom they are affiliated, and that as officers of said unincorporated associations they have failed and refused during the year 1958 to file with the Secretary of State prior to December 31 of that year an affidavit attesting to the fact that none of the officers of the said NAACP is a member of any organization heretofore cited by the House of Congress Un-American Activities Committee or the United States Attorney General as Communists, Communist-front, or subversive organizations, and some of the defendants, through their attorneys have stated in a suit filed in the United States District Court for the Eastern District of Louisiana, New Orleans Division, that they will not comply with the law of Louisiana and more particularly as set forth in Act No. 260 of the Regular Session of the Legislature for the year 1958 (R.S. 14:385 et seq).

16.

That this proceeding is instituted by the Attorney General of Louisiana under the express provisions of LSA-

R.S. 12:405, which provides that it is mandatory under the circumstances herein existing that the said Attorney General "proceed by injunction or otherwise to dissolve any organization or subdivision or subordinate body violating the provisions of this Chapter and to prevent any meeting of the officers and members thereof until they have complied herewith."

[fol. 79]

17.

That the said NAACP and its above described subordinate bodies and each of them has in the past several years, and particularly during the year 1959, carried on extensive activities in the State of Louisiana, which includes, but is not limited to, organization of branches of the NAACP, collection of membership dues, holding meetings, prosecution of legal actions, furnishing of counsel for litigants, and other similar activities.

18.

That the said NAACP has operated in the State of Louisiana under the guidance of and by virtue of the activities of the said defendants and others.

19.

That the defendants have conspired together to hold meetings and/or do other things on behalf of and as a function of the said NAACP, all in the Parish of Orleans and Caddo and/or the State of Louisiana, at one or more times during the year 1959.

20.

More specifically, it is alleged that on Saturday, August 8, 1959, there was held in New Orleans, Louisiana a meeting of the Louisiana State Conference of Branches of NAACP, the purpose of which was to plan for the annual state meeting to be held in Shreveport, Louisiana in October and to "lay the foundation for an extensive program of growth and expansion of NAACP in local neighborhoods and throughout the state," as will appear more

particularly by reference to a news item in The Shreveport Sun, a newspaper published by and for colored people in Shreveport, Louisiana, under date of Saturday, August 15, 1959, a copy of which is attached hereto and made a part hereof, which meeting was held by and attended by various ones of the defendants named in this suit.

[fol. 80] 21.

Also it is alleged that on Thursday, October 1, 1959, there was held in New Orleans, Louisiana, a report meeting of the Fall Membership Campaign of the NAACP, which meeting was held by and attended by various defendants herein, at which awards were made for obtaining new memberships in the said NAACP, with further awards to be made at a similar meeting then announced to be held on Thursday, October 8, 1959 in New Orleans, Louisiana, and at which meeting of October 1, 1959 the defendant Chapital and the wife of one Willie Harris were elected to attend the annual meeting of the Louisiana State Conference of Branches of NAACP to be held in Shreveport, Louisiana on October 10 and 11, 1959, all of which is more fully shown by reference to a news item in The Louisiana Weekly, a newspaper published for colored people in New Orleans, Louisiana, under date of Saturday October 10, 1959, a copy of which is attached hereto and made a part hereof.

22.

That the defendant, R. L. Williams, alleging himself to be President of the Shreveport Branch NAACP, mailed to the Shreveport Journal an announcement of The Annual Convention of the Louisiana State Conference of Branches of the NAACP to be held in Shreveport, Louisiana on October 10 and 11, 1959, as shown by a news release by the said "Shreveport Branch" and by copy of news items resulting therefrom in both the Shreveport Journal on October 6, 1959 and the Shreveport Times on October 7, 1959, all of which are attached hereto and made a part hereof by reference.

23.

That similar news items, some of which emanated from the defendant R. L. Williams, further relating to the avowed purpose of the holding of the meeting for and on behalf of the said NAACP in Shreveport, Louisiana on October 10 and 11, 1959, appeared in the said Shreveport Sun under dates of October 3 and 10, 1959, in the Shreveport Journal of October 8, 1959 and the Shreveport Times of October 9, 1959, as is more fully seen by reference to copies of said news stories attached hereto and made a part [fol. 81] hereof by reference.

24.

That in accordance with all of said news items, and further upon information and belief, it is alleged that a "workshop" meeting is to be held on Saturday morning, an 8:00 P.M. supper designated as "NAACP Freedom Fund Dinner" is to be held on Saturday night, and further meetings are scheduled during the day of Sunday, all on the dates of October 10 and 11, 1959, and all of said meetings will be held and attended by the defendants as members of the hereinabove described NAACP for and on behalf of the said NAACP, in Shreveport, Louisiana, all in violation of the laws of the State of Louisiana, as is hereinafter shown.

25.

That, as shown by certificates from the office of the Secretary of State, State of Louisiana, attached hereto and made a part hereof, since the month of December, 1957, there has not been filed a list of the officers and members of the defendant NAACP residing in Louisiana nor a list of the members of the defendants Louisiana State Conference of Branches of NAACP and Shreveport Branch NAACP, although under the law (R.S. 12:401 through 408, both inclusive) such lists were required to be filed not later than December 31, 1958.

26.

That the said R. L. Williams, as President of the Shreveport Branch NAACP, has been and still is selling tickets

for the above mentioned "NAACP Freedom Fund Dinner" to be held as aforesaid, at Freeman & Harris Cafe, one of said tickets being attached hereto and made a part hereof by reference.

[fol. 82]

27.

That the lists required by law, hereinabove mentioned, were duly filed by the Louisiana State Conference of Branches of NAACP and also by the Shreveport Branch NAACP with the Secretary of State for the years 1956 and 1957, making the next lists due during December, 1958; that no such lists were filed in December, 1958, although the said NAACP has been operating in the State of Louisiana, particularly in Orleans Parish, Louisiana especially during the year 1959 and also in Caddo Parish, Louisiana very recently through the activities of defendant R. L. Williams, president of the Shreveport Branch NAACP, and other members of said NAACP.

28.

That all meetings and activities of the said NAACP and the various defendants as set forth hereinabove have been carried on in violation of Louisiana law as set forth above; that the holding and attending of these meetings by members of the said NAACP in Louisiana and the failure to file the required lists with the Secretary of State since December 31, 1957 constitute violations of the laws of the State of Louisiana, as will be the holding and attending of the announced meetings to be held in Shreveport, Louisiana on October 10 and 11, 1959.

29.

That, as shown by annexed documents, the defendant R. L. Williams has publicly stated that the said meetings of October 10 and 11, 1959 will be held as announced by him for said above described NAACP, unless an injunction is issued.

30.

That in order to protect the State of Louisiana from the commission of further violations of law and under the

provisions of RS 12:405 it is necessary that this court permanently restrain and enjoin the defendants, their agents and employees, all as hereinafter prayed for.

[fol. 83]

31.

That; because of the course of conduct of the defendants since December 31, 1958 and because of the public statement of defendant R. L. Williams, petitioner fears that the defendants will continue their unlawful activity, in complete and utter disregard of the law, even though they had filed lists in previous years, and therefore it is necessary that this Court issue a preliminary writ of injunction as hereinafter prayed for.

32.

That the meetings and other activities conducted in the past, as aforesaid, by the various defendants herein, have been deliberate and planned violations of the law of Louisiana; and, as well, the said proposed meetings constitute another instance wherein the defendants will attempt to ignore the plain provisions of the laws of our State.

33.

That the proposed activities and meetings of the defendants, as aforesaid, are designed and intended to incite and advocate a disregard of the peace and good order of the State, City, and community, and are inimical to the welfare and best interest of the State of Louisiana and its citizens.

34.

That due to the fact that the defendants may accomplish their purpose of the unlawful proposed meetings in Shreveport, Louisiana before a notice can be served and a hearing had on petitioner's application for a preliminary injunction, and that immediate and irreparable injury, loss and damage would result thereby, in that the peace and good order of the State and its citizens would be threatened, and in order to protect petitioner's rights properly, it is

necessary that a temporary restraining order in the form and substance of the injunction and preliminary injunction mentioned hereinabove, issue herein.

[fol. 84]

35.

That since this is a proceeding brought by and on behalf of the State of Louisiana, no bond need be furnished in connection with the issuance of any injunction or restraining order.

36.

That the first named defendant, said above described NAACP, is not such a corporation as is required by law to appoint an agent for service of process but has engaged in business activities in this state through acts performed by its agents, members or employees, and accordingly, under the provisions of R.S. 13:3471, service of process on said NAACP may be made on any employee or agent of said corporation over the age of eighteen (18) years, all as provided by said R.S. 13:3471 providing for substituted service.

WHEREFORE, petitioner prays:

I. That a temporary restraining order issue herein according to law, without bond, directed to the defendants and restraining, enjoining and prohibiting defendants, their agents, employees, and all other persons, firms, or corporations acting or claiming to act in their behalf, from holding in the state of Louisiana any meetings of any officers and/or members of the said NAACP or any of the subordinate bodies, subdivisions, or affiliates thereof, until they have complied with the provisions of R.S. 12:401 et seq. and R.S. 14:385 et seq.

II. That a rule nisi issue herein commanding the defendants and each of them to show cause on a date not less than two nor more than ten days from service hereof why a preliminary injunction should not issue herein, without bond, restraining them and each of them, their agents, employees and all other persons, [fol. 85] firms or corporations acting or claiming to

act on behalf of any of them from holding in the state of Louisiana any meetings of any officers and/or members of the said NAACP or any of the subordinate bodies, subdivisions or affiliates thereof until they have complied with the provisions of R.S. 12:401 et seq. and R.S. 14:385 et seq.

III. That upon the trial of said rule there be judgment in favor of the State of Louisiana and your relator and your petitioner granting said preliminary injunction;

IV. That upon final trial hereof, judgment be rendered in favor of petitioner and against defendants and each of them, perpetuating the said preliminary writ of injunction and making it permanent in the form and substance hereinabove mentioned;

V. And for all necessary orders and decrees, and for full, general and equitable relief.

STATE OF LOUISIANA

By /s/ JACK P. F. GREMILLION

By /s/ GEORGE M. PONDER
Jack P. F. Gremillion
Attorney General of Louisiana

/s/ GEORGE M. PONDER
George M. Ponder
First Assistant Attorney General

/s/ FERDINAND A. CASHIO
Ferdinand A. Cashio
Special Assistant Attorney General

/s/ M. E. CULLIGAN
M. E. Culligan
Special Assistant Attorney General

/s/ WILLIAM P. SCHULER
William P. Schuler
Special Assistant Attorney General

[fol. 86]

STATE OF LOUISIANA:

: ss.

PARISH OF CADDO :

BEFORE ME, the undersigned authority, personally came and appeared

GEORGE M. PONDER

who being by me first duly sworn on oath, did depose and say:

That he is First Assistant Attorney General of the State of Louisiana, and that he is authorized under the provisions of law to file the above and foregoing proceeding; that he has read the foregoing petition herein; and, that all of the allegations of fact therein contained are true and correct to the best of his knowledge, information, and belief, and that all of the allegations made upon information and belief he verily believes to be true.

/s/ GEORGE M. PONDER
George M. Ponder

SWORN TO AND SUBSCRIBED before me, on this the 9th day of October, A.D. 1959.

/s/ FERDINAND A. CASHIO
Notary Public, Caddo Parish, Louisiana

[fol. 87] ORDER

Premises considered:

Let a temporary restraining order issue herein, without bond, enjoining and prohibiting the defendants, their agents, employees, and all other persons, firms, or corporations acting or claiming to act in their behalf, from holding any meetings of any officers and/or members of the said NAACP or any of the subordinate bodies, subdivisions, or affiliates thereof in the State of Louisiana, until they have complied with the provisions of LSA-R.S. 12:401 et seq

and LSA R.S. 14:385 et seq, all as prayed for and according to law.

Let a rule nisi issue herein commanding the defendants and each of them to show cause, if any they have or can, on the 14 day of October, A.D., 1959, at 10:30 o'clock A.M., why a preliminary injunction should not issue herein, without bond, restraining and enjoining them, their agents, employees, and all other persons, firms, or corporations acting or claiming to act on behalf of any of them, from holding any meetings of any officers and/or members of the said NAACP or any of the subordinate bodies, subdivisions, or affiliates thereof, in the State of Louisiana, until they have complied with the provisions of LSA-R.S. 12:401 et seq and LSA-R.S. 14:385 et seq, all as prayed for and according to law.

Shreveport, Louisiana, this the 9th day of October, A.D., 1959.

/s/ JOHN A. DIXON, JR.,
Judge, First Judicial District Court, Parish of Caddo, State of Louisiana.

(Illegible)

[Vol. 87a]

EXHIBIT B TO MOTION

FIRST DISTRICT COURT
STATE OF LOUISIANA

PARISH OF CADDO

No. 141,252

STATE EX REL. JACK P. F. GREMILLION,
ATTORNEY GENERAL

VS

SHREVEPORT BRANCH, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

TEMPORARY RESTRAINING ORDER AND RULE TO SHOW CAUSE

TO: DORETHA A. CAMBRE, Individually, as President of Louisiana State Conference of NAACP, and as an officer of NAACP, LAKE CHARLES, LOUISIANA

YOU, YOUR AGENTS, EMPLOYEES, AND ALL PERSONS, FIRMS, OR CORPORATIONS ACTING OR CLAIMING TO ACT IN YOUR BEHALF, ARE HEREBY ORDERED, RESTRAINED, ENJOINED AND PROHIBITED, in the name of the State of Louisiana and of this Honorable Court, from holding any meetings of any officers and/or members of the said NAACP or any of the subordinate bodies, subdivisions, or affiliates thereof in the State of Louisiana, until you have complied with the provisions of LSA-R-S 12:401 et seq and LSA R.S. 14:385 et seq.

YOU ARE HEREBY ORDERED, DIRECTED AND COMMANDED, in the name of the State of Louisiana and of this Honorable Court, to show cause before this Court on the 14th day of October, 1959, at 10:30 o'clock A.M., why a preliminary injunction should not issue herein, without bond, restraining and enjoining you, your agents, employees, and all other persons, firms, or corporations acting or claiming to act on behalf of you, from holding meetings of any officers and/or members of the said NAACP of any of the subordi-

nate bodies, subdivisions, or affiliates thereof, in the State of Louisiana, until you have complied with the provisions of LSA-R.S. 12:401 et seq and LSA-R-S 14:385 et seq.

ALL as prayed for in the petition this day filed, a copy of which is attached hereto and made a part hereof.

AND herein fail not.

WITNESS the Honorable John A. Dixon, Jr., Judge of our Court on this the 9th day of October, 1959.

.....

Clerk

[fol. 88] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action 1678

STATE OF LOUISIANA, Plaintiff,

vs.

JOHN G. LEWIS, et al., Defendants.

ORDER APPOINTING A THREE-JUDGE COURT—October 29, 1959

The Honorable J. Skelly Wright, United States District Judge for the Eastern District of Louisiana, to whom an application for injunction and other relief has been presented in the above styled and numbered cause, having notified me that the action is one required by act of Congress to be heard and determined by a district court of three judges, I, Richard T. Rives, Chief Judge of the Fifth Circuit, hereby designate the Honorable John Minor Wisdom, United States Circuit Judge, and the Honor-

able Herbert W. Christenberry, United States District Judge for the Eastern District of Louisiana, to serve with Judge Wright as members of, and with him to constitute the said court to hear and determine the action.

Witness My Hand this 29th day of October, 1959.

Richard T. Rives, Chief Judge, Fifth Judicial Circuit.

[fol. 89] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action 8554

NEW ORLEANS BRANCH OF N.A.A.C.P., et al., Plaintiffs,

versus

WADE O. MARTIN, JR., Secretary of State, et al., Defendants.

ORDER APPOINTING A THREE-JUDGE COURT—October 29, 1959

The Honorable J. Skelly Wright, United States District Judge for the Eastern District of Louisiana, to whom an application for injunction and other relief has been presented in the above styled and numbered cause, having notified me that the action is one required by act of Congress to be heard and determined by a district court of three judges, I, Richard T. Rives, Chief Judge of the Fifth Circuit, hereby designate the Honorable John Minor Wisdom, United States Circuit Judge, and the Honorable Herbert W. Christenberry, United States District Judge for the Eastern District of Louisiana, to serve with Judge Wright as members of, and with him to constitute the said court to hear and determine the action.

Witness My Hand this 29th day of October, 1959.

Richard T. Rives, Chief Judge, Fifth Judicial Circuit.

[fol. 90]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action No. 1678, Baton Rouge Division

STATE OF LOUISIANA,

versus

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.

Civil Action No. 8554, New Orleans Division

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.,

versus

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

MINUTE ENTRY OF ORDER CONSOLIDATING CASES—
October 30, 1959

It Is Ordered that Civil Action 1678, Baton Rouge Division, and Civil Action 8554, New Orleans Division, be, and the same are hereby, consolidated for all purposes.

It Is Further Ordered that these consolidated cases be set for hearing on application for temporary injunction on Friday, November 13, 1959, at 2:00 P. M.

It Is Further Ordered that the hearing will be on a record made up of affidavits, depositions and other documentary evidence.

It Is Further Ordered that the State of Louisiana, through its proper officer, file in the record at the time of hearing a statement containing the following information: (1) number of organizations subject to La.R.S.

12:385-388 and 12:401-409; (2) the number of such organizations which have complied with the requirements of these statutes each year since their effective dates; and (3) the number of enforcement actions brought by the Attorney General under these statutes and the names of the defendants therein.

Wright, J.

[fol. 91] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action No. 1678, Baton Rouge Division

STATE OF LOUISIANA,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.

Civil Action No. 8554, New Orleans Division

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.,

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

AFFIDAVIT—Filed November 13, 1959

Parish of Orleans)
) ss:
State of Louisiana)

Clarence A. Laws, being duly sworn, deposes and says:

That he was employed as a full time Field Secretary of the National Association for the Advancement of Colored

5. The Executive Secretary shall have charge of the general secretarial work of the Association. He shall coordinate and integrate the work of the several Divisions, Branches, Departments, and Bureaus, and shall aid and cooperate in the work of all committees. He shall submit reports to the Board at its regular meetings, or whenever it requires, covering the state of the Association and its [fol. 106] activities since the date of his last report. He shall make an annual report covering the status of the Association and its activities. He shall perform such other functions and exercise such further duties as may be assigned him by the said Board.

6. In the absence of any officer or employee, or for any other reason that may be deemed sufficient, the Board of Directors may delegate such officer's or employee's powers and duties to any other officer or employee, or to any director for the time being.

Article V

Committees

1. The Board of Directors may create such standing or special committees in addition to those prescribed herein as it considers advisable to carry out any purposes connected with the work of the Association.

2. Salaried officers and staff members shall be eligible for committee assignment, except on committees dealing with personnel and employment.

Article VI

Divisions, Departments and Bureaus

The Board of Directors shall have power to create from time to time such regional Divisions and such Departments or Bureaus of the Association as it may deem advisable to carry out the objects for which the Association was created.

Article VII

Branches

The Board of Directors may create Branches, Youth Councils, College Chapters, and such other units of the [fol. 107] Association in such places and under such conditions as it sees fit. Each of the above shall be administered under a charter granted to it by the Board of Directors and in accordance with the Constitution and By-Laws authorized by said Board of Directors.

Article VIII

Meetings of Directors

1. Regular meetings of the Board of Directors shall be held on the second Monday of each month unless such Monday be a holiday, in which event the meeting of that month shall be held on the first business day thereafter; except that the regular meeting in January in each year shall be held on the same day as the Annual Meeting.

2. A special meeting of the Board of Directors may be called by any officer of the Association upon the written request of any three (3) members of the Board. The object of such meeting shall be stated in the notice therefor and the business transacted in the meeting shall be limited to the object so stated.

3. The Executive Secretary shall give the members of the Board seven (7) days' notice in writing of its regular meetings and three (3) days' notice of any special meeting of the Board.

4. One-third of the members of the Board shall be necessary to constitute a quorum for the transaction of business, except to adjourn.

Article IX

Convention

1. The Association shall have an Annual Convention to be held at the time and place determined in the following

People in Louisiana, and that he was so employed in 1955 and in 1956 until the state court enjoined all activities of the organization in Louisiana. As Field Secretary his job was to travel throughout the State, to help branches in membership campaigns and other N.A.A.C.P. activities. Since the injunction, he worked for a while outside the State, and returned to Louisiana in 1958 in an effort to rebuild the organization which had been all but destroyed.

The following are some of the ill effects resulting from the injunction against the N.A.A.C.P. in Louisiana in 1956 pursuant to LSA-R-S 12:401-409 and economic and other pressures resulting from the filing of membership lists by several branches in 1956, 1957 and 1958:

The immediate result of the State injunction was the [fol. 92] resignation from the Board of Directors of the Louisiana State Conference of Branches, N.A.A.C.P., by teachers and others employed in positions where they felt economic and/or political pressures could be brought to bear against them. Similar resignations followed on the branch level. Of course, these persons have not since rejoined the Association and most are even afraid to give anonymous contributions.

Branch leaders, especially in North Louisiana, resigned or became inactive. Some even refused to acknowledge correspondence after it had been determined that the State injunction against the N.A.A.C.P. was null and void.

Louisiana teachers, who before the injunction had provided funds for legal aid in cases involving civil rights, immediately withdrew this aid and have not resumed giving any support in this area.

Fraternal and even some social organizations which had long supported the N.A.A.C.P.—discontinued support following the injunction on the grounds that some of their members held jobs which made them vulnerable to economic pressures. Even parents of some such persons began to give this as their reason for not joining the N.A.A.C.P.

Many church leaders who formerly made or permitted appeals to be made in behalf of the N.A.A.C.P., ceased to do so after April, 1956. Schools and other facilities have been closed to the N.A.A.C.P. since the injunction.

At every state meeting since the first N.A.A.C.P. branches filed membership lists in December, 1956, branch leaders have reported loss of jobs by N.A.A.C.P. members whose names were filed and subsequently published in local newspapers. Reports of threats and intimidations have also been reported at these state meetings. These have been [fol. 93] given as reasons for lagging membership.

I know for a fact that telephone calls and letters threatening the Field Secretary and his wife were received following the State injunction.

The prestige of the N.A.A.C.P. suffered among fraternal, religious and civic organizations following the injunction in 1956. Conferences and conventions which traditionally invited N.A.A.C.P. leaders to participate in their activities no longer do so.

Fifteen persons and organizations in the State who were paying on Life Memberships ($500.00 memberships) have not made a single payment since 1956. The total balance owed by these persons or organizations is $6,150.00.

Before March 1956, when the injunction proceedings were begun against the N.A.A.C.P., there were 65 N.A.A.C.P. Branches in Louisiana. Today there are only ten branches and only three of those have memberships in excess of 50.

In 1955, the year before the injunction, the State N.A.A.C.P. membership was approximately 13,000. In the three full years since 1955, i.e., 1956, 1957 and 1958, the total number of memberships written was approximately 6,000. This means that in three full years we have been able to secure less than 50 percent of the memberships obtained in one year—1955.

On the basis of the interest in the N.A.A.C.P. program in 1955 and in 1956, just before the injunction, a moderate estimate of the cost of the State injunction and other harassment to the N.A.A.C.P. in membership alone is more than $125,000.

Clarence A. Laws

Sworn to before me this
13th day of November, 1959.
A. M. Trudeau, Jr.

[fol. 94] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action No. 1678, Baton Rouge Division

STATE OF LOUISIANA,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.

Civil Action No. 8554, New Orleans Division

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.,

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

AFFIDAVIT—Filed November 13, 1959

State of New York)
) ss:
County of New York)

Roy Wilkins, after being duly sworn, deposes and says:

That he is the Executive Secretary (chief executive officer) of the National Association for the Advancement of Colored People (hereafter designated as N.A.A.C.P.), a non-profit membership corporation organized under the Membership Corporation Law of the State of New York. The organization's principal offices are located at 20 West 40th Street, New York, New York. The N.A.A.C.P. has been in existence for 50 years and has been incorporated since

1911. The principal aims and purposes of the N.A.A.C.P. are set out in its Articles of Incorporation, a copy of which is attached hereto as Exhibit A, as follows:

> . . . to promote equality of rights and eradicate caste or race prejudice among the citizens of the United States; to advance the interest of colored citizens; to secure for them impartial suffrage; and to increase their opportunities for securing justice in [fol. 95] the courts, education for their children, employment according to their ability, and complete equality before the law.
>
> To ascertain and publish all facts bearing upon these subjects and to take any lawful action thereon; together with any and all things which may lawfully be done by a membership corporation organized under the laws of the State of New York for the further advancement of these objects.

The N.A.A.C.P. is governed by a Board of Directors consisting of 48 persons, one-third of whom are elected each year by its members at the corporation's annual meeting, which is held in January of each year at its principal offices in New York. The duties and responsibilities of the Board of Directors are those set out in its Constitution, attached hereto as Exhibit B, and those general duties of Board of Directors as set out in the Membership Corporation Law of the State of New York.

The N.A.A.C.P. has chartered affiliates—designated as college chapters, youth chapters, branches and State Conference of Branches—throughout the United States. These affiliates are unincorporated associations and membership therein, upon acceptance at the N.A.A.C.P.'s principal office in New York, constitutes membership in the corporation. Each affiliate is semi-autonomous, with its own officials and governing body, and within the limits of the general directive "to promote the economic, political, civic and social betterment of colored people, and their harmonious cooperation with other peoples," as set forth in the Constitution of the N.A.A.C.P. (Exhibit B) and Constitution and By-laws for Branches, attached hereto as Exhibit C, each affiliate

determines for itself the program it will follow at the local level.

Prior to 1956, there were N.A.A.C.P. chartered branches, youth councils and a State Conference of Branches operating in the State of Louisiana. In addition, Clarence Laws was employed as a full-time Field Secretary for the State [fol. 96] of Louisiana, with salary and expenses paid by the corporation for the purpose of building up the membership of the N.A.A.C.P. in Louisiana and aiding the various affiliates in devising and carrying out a program designed to end various forms of racial discrimination and segregation within their respective communities—the principal aim and objective of the N.A.A.C.P., its affiliates and members.

The chief activities of the N.A.A.C.P., its affiliates and members in Louisiana have been aiding Negro residents of this State in seeking vindication of their constitutional rights in the federal courts, including litigation commenced in the federal courts of this State to secure the end of discrimination against Negroes in respect to the payment of the salaries of public school teachers; to secure the end of discrimination in respect to rights of Negro qualified citizens to register and vote for local, state and federal officials; and to secure equal and nonsegregated access to public transportation facilities, public recreation and public schools, and to due process of law in criminal proceedings. Some of this litigation has come before this Court, including *Hall* v. *Nagel*, 154 F.2d 931 (C.A. 5th 1946); *Tureaud* v. *Board of Supervisors*, 116 F. Supp. 248; *Wilson* v. *Board of Supervisors*, 92 F. Supp. 986; *Ludley* v. *Board of Supervisors*, 150 F. Supp. 900; *Bush* v. *New Orleans Parish School Board*, 138 F. Supp. 336, 337, and others.

At no time has the N.A.A.C.P. or any of its affiliates advocated the overthrow of the government by unlawful means. Nor is the N.A.A.C.P. a secret oath-bound organization seeking to accomplish its aims and purposes through use of violence, intimidation or other illegal activities. The N.A.A.C.P. and its affiliates functioned and operated openly within the State of Louisiana without complying with or [fol. 97] being called upon to comply with the provisions of LSA-R.S 12:401-409 until proceedings were instituted by the State of Louisiana in March, 1956, for failure to

comply therewith. It should be pointed out that no person in authority in the N.A.A.C.P. either in Louisiana or at the national level had been advised by state officials to comply with the aforesaid statute, and it was the general belief of citizens of the state, shared by the N.A.A.C.P., that this statute was directed at the Ku Klux Klan and other masked and secret oath-bound organizations alone.

Because of the adverse climate of opinion in Louisiana towards the N.A.A.C.P., particularly since the decision of the United States Supreme Court outlawing school segregation in 1954, persons who advocated desegregation or openly associated themselves with the aims or objectives of the N.A.A.C.P. were fearful of and liable to economic, social and physical reprisals, including loss of jobs, threats and intimidation and even physical violence. Persons in sensitive positions were fearful of their jobs if it became publicly known they were associated with the N.A.A.C.P. as members or contributors. As a result, the threatened enforced disclosure of membership or association in the N.A.A.C.P. which LSA-R-S 12:401-409 required and which the State sought constituted an effective restraint on freedom of association and freedom of speech, subjected the organization to great loss in membership, funds and public support and threatened to destroy the organization as an effective force in the State. For these reasons the N.A.A.C.P. refused to comply with LSA-R-S 12:401-409, but sought to test the validity and constitutionality of its application to it in the courts. Because of the effect which membership disclosure has had upon persons associated with the N.A.A.C.P. in the South since 1954 in respect to reprisals, intimidations and other social and physical [fol. 98] pressures, the N.A.A.C.P. took the position that such enforced disclosure constituted an unwarranted violation of freedom of speech and freedom of association secured against state interference by the Fourteenth Amendment to the Constitution of the United States. The United States Supreme Court vindicated our position in this regard in *National Association for the Advancement of Colored People* v. *Alabama*, 357 U. S. 449.

Since the proceedings were instituted against the N.A.A.C.P. in 1956 in the 19th Judicial District for the

Parish of East Baton Rouge, the N.A.A.C.P. was forced to close its offices and dissolve all activities of its affiliates within the state. After the opinion and judgment of the Court of Appeals for the First Circuit, 90 So. 2d 884, and the failure of the state to press in this Court for a remand of the proceedings to the state courts, the N.A.A.C.P. has sought to resume its activities and revive and reorganize its affiliates and increase its membership—in short, to restore it to what it had been before March, 1956.

In the interim, between action instituted by the state and action of the Louisiana State Court of Appeals, several branches in the state attempted to function and operate by complying with LSA-R-S 12:401-409; they filed membership lists with the Secretary of State as required. However, in so doing these branches lost the bulk of their members because only those persons who had nothing to fear in terms of reprisals felt able to continue their membership, with the knowledge that their names and addresses would be open for public inspection in offices of the Secretary of State. Therefore, it was clear that the organization could function effectively in Louisiana only if compliance with LSA-R-S 12:401-409 was not necessary.

Subsequently, the Louisiana legislature enacted LSA-R-S 12:385-388, and in November of 1958 Civil Action No. [fol. 99] 8554 was commenced in this Court to determine the constitutionality of both LSA-R-S 12:385-388 and LSA-R-S 12:401-409. Insofar as LSA-R-S 12:385-388 is concerned, aside from its unconstitutionality as an unwarranted restraint on freedom of association, it would be impossible for any local officer to comply with its terms.

Since March, 1956, the N.A.A.C.P. has lost greatly in terms of members, contributions and public support which is directly attributable to impress of LSA-R-S 12:401-409 and LSA-R-S 12:385-388 on the organization and its members. The N.A.A.C.P. has thereby been deprived of property without due process, and its members denied rights and freedom of association and privacy in that association secured under the Fourteenth Amendment.

That it is for these reasons that the National Association for the Advancement of Colored People has refused

to comply with either statutory provisions and has sought to determine the validity of these provisions in this Court.

This deponent prays, therefore, that a temporary restraining order as prayed for be entered restraining state officials from proceeding in the state court to bar in any way the activities of the N.A.A.C.P. and its members until the constitutional validity of LSA-R-S 12:401-409 and LSA-R-S 12:385-388 has been determined by this Court.

Roy Wilkins

Sworn to before me this
12th day of November, 1959.
Richard W. McClain

RICHARD W. McCLAIN
Notary Public, State of New York
No. 60-7802625
Qualified in Westchester County
Term Expires March 30, 1960

[fol. 99a] Exhibit A to affidavit—Certificate of Incorporation of N.A.A.C.P. with certificate of Secretary of State of New York. Omitted. Printed side folio 57 ante, page 25.

[fol. 100] EXHIBIT B TO AFFIDAVIT

CONSTITUTION

OF THE

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

[Emblem]

20 West 40th Street
New York 18, N. Y.

1957

[fol. 101]

CONSTITUTION

OF THE

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

ARTICLE I

Name

The name of this Association shall be the National Association for the Advancement of Colored People.

Membership

1. Any person who is in accordance with the principles and policies of the Association may become a member of this Association with the consent of the Board of Directors, by accepting membership in writing under and in accordance with this Constitution and by paying annually in advance a membership fee of at least Two Dollars ($2.00).

2. The Board of Directors shall have power to create such classes of membership as it may deem desirable, and may issue appropriate certificates of membership to persons entitled thereto.

ARTICLE II

Board of Directors

1. The Association shall have a Board of Directors not [fol. 102] exceeding forty-eight (48) members, one of whom shall be elected from the Youth Councils or College Chapters of the Association.

2. The present Directors shall continue to serve for the terms for which they were elected, and thereafter sixteen Directors shall be elected annually (by ballot by the Association) as hereinafter provided for a term of three years and until their successors are chosen. Any vacancy occur-

ring during the year may be filled by the Board of Directors for the unexpired term.

3. (a) Election of Board of Directors: The said Association shall have a Nominating Committee consisting of seven (7) members of the Association; four (4) to be elected by the delegates to the Annual Convention; three (3) to be elected annually by the Board of Directors from its own members. Members of the Nominating Committee are ineligible for nomination to the Board of Directors during the year in which they serve on said committee. The Nominating Committee shall meet during the third week in September. It shall submit to the Executive Secretary not later than October 1 of each year nominations for all vacancies to be filled on the Board of Directors. The Executive Secretary shall forthwith send to all Branches and have published in the next issue of the *Crisis*, or other official organ of the Association, the said report of the Nominating Committee. In the event that no Annual Convention is held in any year, the members elected by the Convention delegates to the preceding Annual Convention shall serve on the Nominating Committee until the next Annual Convention.

(b) Independent nominations may be made by petitions signed by not less than thirty (30) members of the Asso-
[fol. 103] ciation in good standing by filing the same with the Executive Secretary not later than November 1 of each year. The Executive Secretary shall send to each Branch of the Association, not later than November 15 of each year, a ballot containing the nominations of the Nominating Committee, plus the nominations by independent petition. Each Branch at its annual meeting shall, by vote of the members present, make its choices for members of the Board of Directors. The said choices shall be marked upon the ballot submitted by the Executive Secretary and the said ballot shall be signed by the president and secretary of the Branch and must be returned to the national office not later than December 31 of each year. The said ballots shall be held by the Executive Secretary in a safe place until the Annual Meeting.

(c) At each Annual Meeting the said ballots shall be opened by a committee selected at said Annual Meeting and counted on the following basis:

	Members			Votes
Branches of from	50	to	100*	2
	100		500	3
	500		1,000	4
	1,000		2,500	5
	2,500		5,000	6
	5,000		10,000	8
	10,000		20,000	9
	over 20,000			10

* See note, page 78.

Any ballot or ballots containing the name or names of any persons for election to the said Board not nominated in accordance with this Constitution shall be void.

[fol. 104]

Article III

Officers

1. The officers of the Association shall consist of a President, Chairman of the Board of Directors, such vice-presidents as the Board of Directors may elect, a Treasurer, an Executive Secretary, and such other officers as the Board of Directors from time to time may designate and elect. The said officers shall be elected by the Board of Directors as soon after the Annual Meeting as the new Board can conveniently convene for the purpose.

2. The President, Vice-Presidents, Treasurer, and Chairman of the Board of Directors shall be elected for a term of one year; all other officers shall be elected for a term of one year, unless the Board of Directors shall by resolution passed at the time of the particular election order otherwise. Any vacancy in office may be filled by the Board of Directors for the unexpired term.

3. The President, Vice-Presidents, Treasurer, and Chairman of the Board of Directors shall take office immediately

after their election, and they shall serve their respective terms of office computed from the day of said election or until their respective successors shall be elected and shall qualify.

4. The Board of Directors may from time to time employ such executive officers as it deems necessary.

ARTIC . IV

Duties of Officers

1. The President of the Association shall perform such functions and exercise such duties as may be voted by the Board of Directors. He shall preside at all meetings of [fol. 105] the Association, and, in the absence of the Chairman of the Board, at all meetings of the Board of Directors. He shall be ex-officio member of all committees.

2. The Vice-Presidents shall perform such functions and exercise such duties as may be voted by the Board of Directors.

3. The Chairman of the Board of Directors shall hereafter between meetings of the Board have general control and supervision of the Association, with full authority over all officers and employees of the Association, subject to such limitations as the Board may from time to time impose. He shall preside at all meetings of the Board and shall appoint all committees of the Association not elected directly by the Board. He shall be ex-officio member of all committees.

4. The Treasurer shall be the chief financial officer of the Association and shall have general charge of its fiscal affairs. He shall receive regular reports on the finances of the Association from all Divisions, Branches, Departments and Bureaus thereof, and shall inspect the books and audit the accounts thereof, from time to time. He shall render to the Board of Directors at their regular meetings, or whenever they require, an account of his transactions as Treasurer and shall submit a report of the financial condition of the Association at its Annual Meeting.

[fol. 108] manner: the 1955 Convention shall select the time and place for both the 1956 and 1957 Conventions; thereafter each Convention shall set the time and place for the Convention of the second succeeding year. The Annual Convention of the Association shall have power to establish policies and programs of action for the ensuing year. All actions of the Convention on the question of policy and program, which are not contrary to this Constitution, shall be binding on the Board of Directors, officers, Branches, Youth Councils, College Chapters, and other subordinate units of the Association except as hereinafter provided; no proposal for change of policy or program of action shall be in order unless it shall have been submitted by a Branch in good standing to the Executive Secretary at least sixty (60) days prior to the Annual Convention and published in the Bulletin or the *Crisis* prior to the Annual Convention; action of the Convention pertaining to policy or program of action shall be valid only if passed during the last two business days of the Convention. All actions of the Convention on matters of policy and program of action shall be considered by the Board of Directors at its next regular meeting and if the Board expresses its disapproval by two-thirds vote of members of the Board present and voting, the matter shall then be submitted to the Branches, Youth Councils and College Chapters for final action; each Branch, Youth Council and College Chapter shall vote on said matter and notify the Executive Secretary of such action within thirty days of receipt of same; and this action of Branches, Youth Councils and College Chapters shall be counted by the use of the scale of voting set out in Article II, Section 3.

[fol. 108a] ARTICLE IX, SECTION 2
SHOULD READ:

2. (a) Representation of Branches, Youth Councils and College Chapters at the Annual Conventions shall be on the following basis:

	Members		Voting Delegates
Youth Councils & College Chapters of from	25 to	50*	1
Branches, Youth Councils & College Chapters	50	100	2
	100	500	3
	500	1,000	4
	1,000	2,500	5
	2,500	5,000	6
	5,000	10,000	8
	10,000	20,000	9
	over 20,000		10

*See note, page 78.

(b) Representation shall be on the basis of membership as recorded in the national office thirty (30) days prior to the opening date of each convention. All voting at conventions must be by delegates present and may not be exercised by proxy.

(c) Each Branch, Youth Council and College Chapter is entitled to a number of alternate delegates equal to the number of voting delegates. Alternate delegates shall be permitted to vote in place of absent voting delegates.

(d) Each State Conference shall be entitled to one voting delegate and one alternate.

[*Article IX, Section 2, as originally printed:*]

2. (a) Representation of Branches, Youth Councils and College Chapters at the Annual Conventions shall be on [fol. 109] the following basis:

	Members		Voting Delegates
Youth Councils & College Chapters of from	25 to	50*	1
Branches, Youth Councils & College Chapters	50	100	2
	100	500	3
	500	1,000	4
	1,000	2,500	5
	2,500	5,000	6
	5,000	10,000	8
	10,000	20,000	9
	over 20,000		10

*See note, page 78.

(b) Each Branch, Youth Council and College Chapter is entitled to a number of alternate delegates equal to the number of voting delegates. Alternate delegates shall be permitted to vote in place of absent voting delegates.

(c) Each State Conference shall be entitled to one voting delegate and one alternate.

3. (a) Delegates to the Annual Convention shall be elected by the Branches at their regular monthly meetings prior to the Convention.

(b) Delegates representing State Conferences shall be elected at the meeting of the State Conference preceding the Annual Convention, or by special meeting called in accordance with by-laws of the State Conference.

4. (a) Each delegate must present to the Convention a certificate of election as delegate, signed by the president and secretary of the Branch. Blank forms for certificates and duplicate certificates must be furnished by the National Office. A duplicate of all such certificates must be returned [fol. 110] to the National Office and the original thereof presented to the Convention.

(b) Each State Conference delegate must present to the Convention a certificate of election as delegate, signed by the president and secretary of the State Conference.

5. Convention Committees: During the first regular session of the Convention the following committees shall be elected by the delegates:

A. Resolutions

B. Credentials.

C. Time and place

D. Rules

A. The Committee on Resolutions: Shall take charge of all resolutions referred to it and report thereon to the Convention with proper recommendations.

B. The Committee on Credentials: Shall examine and report upon the credentials of all delegates to the Convention.

C. The Committee on Time and Place: Shall take charge of all invitations for next Annual Convention and report its recommendations to the Convention.

D. The Committee on Rules: Shall, with the Constitution and *Robert's Rules of Order* as its guide, recommend to the Convention rules for the government of the Convention while in session.

The duties of the foregoing committees shall expire with the adjournment of each Convention.

Article X

Annual Meeting

The Annual Meeting of the Association shall be held on the first Monday in January in each year unless such Mon- [fol. 111] day be a holiday, in which event the Meeting of that year shall be held on the first business day thereafter, at such time and place as the Board of Directors may determine. The presence of twenty-five (25) members in good standing shall be necessary to constitute a quorum.

Article XI

Limitation of Liability

No Division, Branch, Department, Bureau, or unit of the Association shall have authority or power to impose or incur financial liability on the part of the Association without the express authorization of the Board of Directors, first obtained in writing in advance.

Article XII

Order of Business

Unless altered or suspended at any meeting by a majority vote of the members present, the following shall be the order of business at the meetings of the Association, the Board of Directors, or any Division, Branch, Department, Bureau or unit of the Association:

Roll Call, or ascertainment of members present

Reading of Minutes of previous meeting

Reports of officers

Reports of committees

Elections

Unfinished business

New business

Rules of procedure as laid down in *Robert's Rules of Order* shall govern such proceedings except as otherwise provided.

[fol. 112]

Article XIII

Amendments

1. This Constitution may be amended by a unanimous vote of all members of the Board of Directors present at a regular meeting or by a two-thirds (⅔) vote of the members of the Board of Directors present at two (2) successive meetings, regular or special, notice of the proposed change or changes to be sent out with the notices of the meetings.

2. An amendment proposed by a majority of the paid-up members of a Branch in good standing must be voted upon by the Board.

Article XIV

Notice to Membership

Whenever the provisions of the statutes of New York or this Constitution require notice to be given to the membership, such notice shall be given by notifying the president of each Branch of the Association by mail and by the printing of the notice in the *Crisis* or other official organ of the Association, if any.

Article XV

Schedule

This Constitution becomes effective when adopted.

Adopted July 7, 1945
Amended to June, 1955

Note to ART. II, Sec. 3(c); ART. IX, Sec. 2(a)
On May 13, 1957, the Board of Directors voted to interpret this table so as to make each numerical class inclusive at its upper limit: e.g., a Branch of 100 members has (2) votes (or voting delegates); a Branch of 500 members has (3) votes (or voting delegates); and so on.

[fol. 113] EXHIBIT C TO AFFIDAVIT

CONSTITUTION
and
BY-LAWS
for
BRANCHES
of the
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

[Emblem]

20 West 40th Street
New York 18, N. Y.

April, 1958

[fol. 114]

CONSTITUTION AND BY-LAWS FOR BRANCHES of the National Association for the Advancement of Colored People

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ARTICLE I.

Name and Object

Section 1—Name The name of this organization shall be the (name of city or county) Branch of the National Association for the Advancement of Colored People.

Section 2—Object The ..... Branch shall be a constituent and subordinate unit of the Association, subject to the general authority and jurisdiction of the Board of Directors of the Association. Its objects shall be to promote the economic, political, civic and social betterment of colored people and their harmonious cooperation with other peoples, in conformity with the articles of incorpora-

tion of the Association, its constitution and by-laws, and as directed by the Board of Directors of the Association.

[fol. 115]

Article II.

Officers

Section 1—Officers (a) The elective officers of the Branch shall be a President, Vice-President, Secretary, and Treasurer; also, at the option of the Branch, additional Vice-Presidents and an Assistant Secretary. The officers shall be elected as hereinafter provided.

(b) Other Officers may be Chairman of the Executive Committee, to be selected by said Committee from within its ranks; and such paid officers (Executive Secretary, etc.) as budgets of larger branches may warrant.

(c) Paid officers shall be selected by the Executive Committee.

(d) Executive Secretaries or other paid officers shall not be members of the Executive Committee.

Section 2—President The duties of the President shall be:

(a) To preside at meetings of the Branch and to act as Chairman of the Executive Committee, unless the Executive Committee elects some other member of its body to be chairman.

(b) To appoint all committees not directly elected by the Branch or the Executive Committee.

(c) Between meetings of the Executive Committee and the Branch and subject to the approval thereof, to exercise general executive authority on behalf of the Branch.

(d) To perform such other functions and exercise such further duties as may be voted from time to time by the Branch or the Executive Committee.

(e) To countersign all requisitions by the Secretary for disbursements from the Branch treasury.

The President shall be ex-officio a member of all com-
[fol. 116] mittees, except the Nominating Committee as provided in Article IV, Section 4.

Section 3—Vice-President The duties of the Vice-President shall be to perform all the duties of the President in his absence or disability. In case of more than one Vice-President, the Vice-Presidents shall be designated as first, second, third, etc., and shall perform their duties according to their numerical rank.

Section 4—Secretary The duties of the Secretary shall be:

(a) To act as Secretary of the Branch and the Executive Committee, to give due notices of all meetings of the Branch and the Executive Committee, to keep full and accurate records of the proceedings of the Branch and of the Executive Committee and record the same in a minute book or minute books, provided that in branches employing a paid staff, the responsibility of giving the membership due meeting notice shall be discharged by said staff under the supervision of the secretary.

(b) To keep a record of all Branch members and their dues, provided that wherever a paid staff is employed such duties shall be discharged by said staff under the supervision of the secretary.

(c) To give receipts for all membership fees received and to transmit such fees to the Branch Treasurer; to send promptly to the National Office lists of all memberships received; to secure from the Treasurer and forward to the National Office that portion of membership fees belonging to the National Office.

(d) To aid, coordinate and integrate the work of the several committees and divisions of the Branch, provided that wherever an Executive Secretary is employed, such duties shall be discharged by said Executive Secretary.

[fol. 117] (e) To submit reports to the Branch and the Executive Committee at all regular meetings, or whenever required by either body, covering the status of the Branch and its activities since the date of the last report; to submit to the Branch at its annual meeting and annual report on the status and activities of the Branch, provided that wherever an Executive Secretary is employed, such duties shall be discharged by said Executive Secretary. A copy

of all reports by the Secretary when adopted by the Branch shall be forwarded to the National Office.

(f) To keep the Secretary of the National Association for the Advancement of Colored People informed of all events affecting the interests of colored people in the vicinity of the Branch, and to submit to the National Office, whenever required by the National Office, a report on Branch activities, provided that wherever an Executive Secretary is employed, such duties shall be discharged by said Executive Secretary.

(g) In conjunction with the President, to sign requisitions for disbursements from the Branch treasury and to maintain a file of receipts for disbursements.

The Secretary shall be ex-officio a member of all committees, except the Nominating Committee as provided in Article IV, Section 4.

Section 5—Treasurer The duties of the Treasurer shall be:

(a) To receive all monies of the Branch and promptly to deposit the same in the name of the Branch in a separate account or accounts in a responsible bank or trust company. No money shall be withdrawn from any such account except on check signed by the Treasurer and countersigned by the President.

(b) To act as chief financial officer of the Branch and [fol. 118] Chairman of the Finance Committee.

(c) To make authorized disbursements upon requisitions signed by the Secretary and countersigned by the President. Each requisition shall recite the amount and purpose of the payment requested. Every requisition in the amount of one hundred dollars or more must further be approved by the Executive Committee before payment. The Branch by regulation may require that requisitions in smaller amount be approved by the Executive Committee.

(d) To remit through the Secretary to the National Office the proportion of membership fees to which the National Office is entitled, as hereinafter provided, within fifteen days after their receipt (Article V, Section 4).

(e) To submit reports to the Branch and the Executive Committee at all regular meetings, or whenever required by either body, covering the financial condition of the Branch showing receipts and disbursements, outstanding accounts unpaid since his last report; to submit an annual report of the business of his office at the annual meeting of the Branch, to which shall be appended a statement signed by the President and Secretary that all funds received by the Branch have been listed in the Treasurer's report. A copy of all reports by the Treasurer, when adopted by the Branch, shall be forwarded to the National Office.

The Branch may require the Treasurer to be bonded at the expense of the Branch.

Section 6—Chairman of the Executive Committee The duties of the Chairman of the Executive Committee shall be:

(a) To preside at all meetings of the Executive Committee.

(b) To encourage and assist all committees in the development of their programs and the performance of their duties.

[fol. 119] (c) To recommend to the Executive Committee the removal of any delinquent chairmen of standing or special committees.

(d) To recommend to chairmen of standing or special committees the removal of delinquent members thereof, and to insist that said chairmen immediately replace such personnel so relieved of duty.

The Chairman of the Executive Committee shall be ex-officio a member of all committees, except the Nominating Committee.

Section 7—Executive Secretary The duties of the Executive Secretary shall be:

(a) To give due notices of all meetings of the Branch as provided in Section 4(a) of this Article.

(b) To keep a record of all Branch members and their dues as provided in Section 4(b) of this Article.

(c) To send promptly to the National Office lists of all memberships received; and to secure from the Treasurer and forward to the National Office that portion of the membership fees belonging to the National Office in cooperation with the secretary.

(d) To aid, coordinate and integrate the work of the several committees and divisions of the Branch.

(e) To manage the Branch office and paid staff; and to supervise the annual membership campaign.

(f) To interview complainants; to act in the name of the Branch on behalf of complainants with valid grievances; to investigate in the name of the Branch reported or alleged or suspected discriminatory practices in any phase of community life; to represent the Branch at various meetings of other organizations approved by the Executive Committee; to lend the Branch to active cooperation with [fol. 120] such other organizations as may be approved by the Executive Committee; to discharge such other duties as may arise in the province of his activity, or as may be assigned by the Executive Committee.

(g) To submit reports of activities of the Branch and the Executive Committee at all regular meetings, or whenever required by either body; to submit to the Branch at its annual election meeting an annual report covering activities. A copy of all reports when adopted by the Branch shall be forwarded to the National Office.

(h) To keep the Secretary of the National Association informed of all events affecting the interests of colored people in the vicinity of the Branch.

The Executive Secretary is responsible to the Branch, to the Executive Committee; and between meetings of the Branch and the Committee to the President.

Article III.

Committees

Section 1—Executive Committee The Executive Committee shall have general control of the affairs of the Branch, subject to the authority of the Branch and to the

provisions of this Constitution. It shall consist of the President, First Vice-President, Secretary, Treasurer, the Chairman of the Executive Committee and the Chairman of the standing committees of the Branch, the President of the Youth Council, the President of College Chapter in the same community, the Senior Branch Adviser in the Youth Council, the Senior Branch Adviser of the Junior Youth Council, and such other members to be elected at the annual meeting of the Branch as the Branch by by-law may decide, [fol. 121] provided that the total membership of the Executive Committee shall not exceed thirty-five except by written authorization of the Board of Directors of the Association.

The Executive Committee shall render a report, which shall contain the reports of all standing and special committees, to the Branch at the regular meetings of the Branch and whenever otherwise required by the Branch.

The further duties and powers of the Executive Committee shall be:

(a) At its first meeting following the annual election meeting, to select a Chairman of the Executive Committee.

(b) At this first meeting, to create the various standing and special committees, the Chairman of each to be selected by the President, subject to the advice and consent of the Executive Committee.

(c) To create special committees as needs arise.

(d) To fill all vacancies in Branch offices or on committees for the unexpired term.

(e) To decide matters of Branch policy subject to endorsement by the Branch and to accord with National Office policy.

(f) To appoint, employ and enter into contract with paid employees of the Branch subject only to employment procedure and qualifications approved by the National Office.

QUORUM—The quorum of the Executive Committee shall be determined by the Branch but shall not be less than one-third of its total membership.

Section 2—Standing Committees The Standing Committees of the Branch shall be the Committees on Mem-

bership, Finance, Community Coordination, Press and Publicity, Legal Redress, Legislation, Labor and Industry, [fol. 122] Education, Entertainment, Youth Work, Housing, and Veterans.

The Committees on Finance, Press and Publicity, Labor and Industry, Youth Work, and Veterans, shall consist of not less than three nor more than seven members.*

The members of all standing and special committees, except the Nominating Committee, shall be appointed by their respective Committee Chairmen.

The duties of the standing committees shall be:

(a) MEMBERSHIP. The Membership Committee shall work throughout the year to maintain and increase the membership of the Association. It shall be responsible for drafting plans and recruiting workers for the annual membership campaign and for organizing adequate campaign machinery. Between annual membership campaigns the committee shall seek to renew old memberships as they expire and to secure new members.

(b) FINANCE. The Finance Committee, which shall consist of the President, Treasurer, and at least one other member, shall study the financial needs of the Branch and shall be responsible for drafting an adequate annual budget. It shall initiate fund raising projects for special local and national purposes within the scope of the Branch program.

(c) PRESS AND PUBLICITY. The Press and Publicity Committee shall endeavor to secure publicity in the local press for the work of the Branch and the Association. By personal visits and correspondence, it shall attempt to interest editors in local conditions affecting colored people and in the race question in general.

It shall watch carefully the publications of the community [fol. 123] and report thereon to the appropriate committee.

The Press and Publicity Committee shall be responsible for forwarding to THE CRISIS items covering Branch activities and important local affairs. It shall also act as far as possible as an agency for the promotion and sale of THE CRISIS.

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* *Amended by Convention June, 1956.*

No publicity shall be released by the Press and Publicity Committee without first being approved by the President of the Branch.

(d) LEGAL REDRESS. The Legal Redress Committee shall include lawyers where possible. It shall investigate all cases reported to it for legal redress, consulting when necessary with the attorneys of the National Legal Committee, and shall watch over all litigation in which the Branch is interested; and keep the Branch Executive Committee informed on the progress of every case.

The Legal Redress Committee shall not give general legal advice.

(e) LEGISLATION. The Legislation Committee should also include lawyers where possible, and if not, should seek advice from members of the National Legal Committee nearest to the Branch.

It shall examine the state laws and local ordinances for possibilities of discrimination, work for better and equal enforcement of the laws, sponsor beneficial legislation and work for the repeal of discriminatory laws.

It shall keep the Executive Committee of the Branch and the National Office promptly informed of all proposed legislation which affects colored people specifically and minorities generally.

The Legislation Committee shall work very closely with the Legal Redress Committee of the Branch.

(f) LABOR AND INDUSTRY. The Labor and Industry Com- [fol. 124] mittee shall seek ways and means of improving the economic status of colored people in particular and of improving general working conditions in industry, in agriculture, and in Federal, state and municipal employment.

It shall induce the Branch membership to join and engage in the activities of responsible organized labor unions and shall promote community action in support of fair labor standards and practices.

The Labor and Industry Committee objectives shall be:

(1) Elimination of: discriminatory employment practices in industry and government which result in refusal to hire colored workers; wage differentials based on race;

unequal opportunities for training and promotion; unfair dismissals; and segregation in employment because of race.

(2) Greater participation of colored persons in the trade union movement.

(3) Ending of segregated locals, auxiliaries, and any other discriminatory practices in labor unions.

(4) Inclusion of non-discrimination clauses in state and federal laws pertaining to the employment of persons in the execution of government contracts.

(5) Joining with labor unions for the enactment of legislation favored by labor and for the repealing of unfavorable labor legislation.

(6) Expanding and improving opportunities for vocational training on the basis of non-segregation.

(g) EDUCATION. The Committee on Education shall study local educational conditions affecting colored people. It shall aim to be a center of popular education on the race question and the work of the National Association. It shall [fol. 125] seek to stimulate attendance of colored youth in schools and shall visit the schools so as to keep informed of conditions and strive to correct abuses where found.

The Committee on Education shall investigate the public school system and examine school boundaries. It shall become familiar with textbook material used and shall seek to eliminate derogatory material from textbooks; it shall seek to eliminate segregation, quota systems and other discriminatory practices in public schools.

(h) ENTERTAINMENTS. The Committee on Entertainments shall work very closely with the Committee on Finance and the Committee on Education to promote entertainments that will be both educational and financially profitable. It shall have charge of entertainments of such kind as are approved by the Executive Committee.

(i) YOUTH WORK. The Committee on Youth Work shall consist of the Senior Branch Adviser to the Youth Council, the Senior Branch Adviser to the Junior Youth Counsel, the Youth Council President, and the Junior Youth Council

President. The membership of this Committee may be increased by the Branch Executive Committee to seven members.

Its duties shall be to develop the youth program of the Branch and to coordinate the programs of the senior and youth groups.

(j) COMMUNITY COORDINATION. The Committee on Community Coordination shall seek to enlist the support of other community organizations on issues affecting the interests of minority groups.

(k) VETERANS. The Committee on Veterans shall study conditions pertaining to veterans in the community, shall [fol. 126] familiarize veterans with procedure to be followed to obtain loans, benefits, jobs and hospitalization in local communities. It shall serve as a clearing house for complaints, counseling service and general information on veterans' laws, rights and benefits. It shall prepare and distribute material advising veterans of their welfare and shall serve as a liaison between branch and local veterans' agencies, organizations and government.

The further duties and powers of the Veterans Committee shall be:

(1) To serve as a center of information on material issued affecting Negro veterans.

(2) To serve as a source of information to veterans and their families seeking information on government agencies serving veterans.

(3) To receive and act on all veterans' complaints relative to discrimination on account of race, color or creed, or denials of benefits in local areas because of discrimination.

(l) HOUSING. The Committee on Housing shall study housing conditions in local communities and shall carry on a program in support of slum clearance, urban redevelopment and the provision of adequate, safe and sanitary housing, both by public and private building. It shall receive and adjust complaints of discrimination in housing, whether public or private, and shall oppose all restrictive practices such as racial restrictive covenants and dis-

criminatory government policies, and shall disseminate information and render other assistance for the development of mutual housing and other cooperative housing programs.

Section 3—Tenure Members of the Executive Committee shall hold office for one year and until their successors are elected and qualify, or until such time as their [fol. 127] conduct disqualifies them for office and warrants their removal as provided in Section 4.

Section 4—Removal Procedure Non-functioning committees shall be promptly discharged by the Executive Committee and, where necessary, new appointments made by the Executive Committee for the unexpired terms or unfulfilled purposes either directly upon the initiative of the Executive Committee or upon recommendation of the Chairman of the Executive Committee or of the President, if no Executive Committee Chairman has been elected.

The position of any member of the Executive Committee or of any standing or special committee who shall be absent from three consecutive meetings of the Committee, without notice or explanation to the Committee, or who shal not perform required duties for three consecutive months, shall be declared vacant by the Executive Committee. A member of any standing or special committee may be directly removed by his chairman for dereliction of duty.

Article IV.

Election of Officers and Executive Committee

Section 1—Organization Meeting (New Branch) The officers and Executive Committee elected at the organization meeting of the Branch shall hold office until their successors are elected and qualify, unless removed for dereliction of duty.

[fol. 128] Section 2—Eligible Voters (New Branch) All those who signify their intention of becoming charter members of the Branch and their endorsement of the aims and purposes of the National Association for the Advancement of Colored People and who have paid the prescribed fees

shall be entitled to vote at the organization meeting and to be elected to office.

Section 3—Annual Meeting Thereafter, all officers and the Executive Committee shall be elected by ballot at each annual meeting of the Branch and shall hold office for one year and until their successors are elected and qualify.

Section 4—Nominating Committee (a) At the October membership meeting of the Branch there shall be elected a Nominating Committee composed of not less than five nor more than fifteen members, who shall have been members of the Branch in good standing at least thirty (30) consecutive days prior to the October meeting;* provided that no more than two members of the Nominating Committee shall be an officer of the Branch or member of the Executive Committee.

This Committee will promptly meet, elect a Chairman and it shall interview qualified persons to be nominated as candidates for Branch offices.

The report of the Nominating Committee, consisting of nominations of qualified persons to fill the existing Branch offices, and the members of the Executive Committee for the ensuing year, shall be made in writing to the November membership meeting of the Branch.

At said November membership meeting of the Branch, additional nominations may be made for all offices and membership on the Executive Committee by written petition signed by three or more members of the Branch in [fol. 129] good standing as of thirty days prior to said meeting. No one shall be nominated without first obtaining his or her written or oral consent.

After all nominations shall have been made, the Branch at said November meeting will then elect an election supervisory committee to consist of three members of the Branch in good standing. It shall be the duty of this special committee to cause to be either printed, mimeographed, or typewritten, a complete ballot containing the correct names of all persons thus nominated. The ballot, so prepared under the supervision of said special committee, shall be the only

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* *Amended by Convention June, 1956.*

ballot to be used on the election day at the Annual Election Meeting of the Branch.

(b) In case a Nominating Committee is not elected, or neglects or fails to render a report, all nominations shall be by petition at the November meeting as provided above.

(c) At least seven days written notice, stating time, place and purpose shall be sent to each member of the Branch in good standing prior to the October and November meetings of the Branch.

Section 5—Election Method All officers and the Executive Committee shall be elected by secret ballot at each Annual Election Meeting of the Branch and shall hold office for one year and until their successors are elected and qualify, unless removed for dereliction of duty, subject to the provisions of Article III, Section 3. Upon proof of qualification, eligible voters shall receive and sign for one ballot each and thereupon immediately proceed to vote secretly.*

No Officer of the Branch, nor any candidate for office, shall occupy the chair at annual election meetings.

The names of the various candidates for office shall be [fol. 130] clearly announced or posted in a place visible to all present at the annual election meeting.

Tellers to count the ballots shall be appointed in equal number by the candidates for office of President. No Officer of the Branch, nor any candidate for office, shall serve as teller.

The number of eligible voting members shall be established before voting begins and such members shall be seated apart from other persons present.

Voting shall be by secret ballot and shall commence not later than two hours after the announced time of the meeting.** When balloting commences the doors of the place of meeting shall be closed to tardy members, and shall not be opened until after the report of tellers has been made.

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* *Amended by Convention June, 1953. Approved by National Board Oct. 13, 1953.*

** *Amended by National Board of Directors, Sept., 1948.*

Section 6—Eligible Voters All members who at least thirty (30) days prior to the Annual Election Meeting have paid the prescribed fees to the Branch, and all whose memberships have been transferred to the Branch from the National Office shall be entitled to vote at said meeting and to be elected to office.

Thereafter, all members who are in good standing by noon of the day of any meeting of the Branch not an Annual Election meeting, shall be entitled to vote at that meeting and to hold office in the Branch.

Section 7—Election Controversy In the event of election controversy, all parties thereto shall submit complaints to the National Office in writing within five days from date of the election meeting. Copies of complaints will be submitted to the Branch by the National Office. Should such complaints, in the opinion of the National Office, warrant intercession, a new election may be ordered by the Board of Directors to be held not later than thirty days in which case a National Officer or person designated by the National [fol. 131] Office shall preside. The designated presiding officer shall order the procedure of the called election meeting; and the results of the election thus supervised shall be accepted as final by all controversial parties thereto, and by the Branch.

In the event the National Office decides to intervene in a contested election for the office of President, Secretary, or Treasurer, upon receipt of notice to that effect by mail or otherwise, no officer of the Branch shall disburse funds from the Branch treasury unless otherwise instructed by the National Office pending settlement of the controversy.

Section 8—Right to Vote The right to vote is personal and may not be exercised by proxy.

Article V.

Membership and Dues

Section 1—Membership Any person who is, in accordance with the principles and policies of the Association†

† *Amended by National Board of Directors, Sept., 1950.*

may become a member of the Branch in accordance with the articles of incorporation and the constitution and by-laws of the Association by paying annually in advance a fee of at least Two Dollars.* Membership in the Branch shall include membership in the National Association.

Section 2—THE CRISIS Any person paying an annual membership of three dollars and fifty cents or more shall be entitled to receive THE CRISIS without further charge for one year.*

Section 3—Membership in Branch Members of the National Association in good standing where branches are being formed, or who establish permanent residence in a community wherein a branch is in existence, may affiliate [fol. 132] with the local Branch and be entitled to vote upon presenting satisfactory evidence of their membership. They shall not be assessed annual membership fees by the Branch until the expiration of the annual membership for which they have paid.

Section 4—Division of Fees The Branch shall remit to the Treasurer of the National Association the National Office's share of all membership fees within fifteen days of their receipt, in the following proportions, and may retain the balance in its treasury for local purpose:

(a) MINIMUM SENIOR MEMBERSHIP (for persons twenty-one years of age or over) $2.00; to National Office $1.00; local treasury $1.00.*

(b) MINIMUM SENIOR MEMBERSHIP WITH CRISIS (for persons twenty-one years of age or over) $3.50; to National Office $2.50; local treasury $1.00.**

(c) BLUE CERTIFICATE MEMBERSHIP $5.00; to National Office $3.50; local treasury $1.50.

(d) GOLD CERTIFICATE MEMBERSHIP $10.00; to National Office $6.00; local treasury $4.00.

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* *Amended by National Board of Directors, Sept., 1948.*

** *Amended by National Board of Directors, Sept. 13, 1948.*

(e) YOUTH MEMBERSHIP (for persons under 17 years of age) $0.50; to National Office $0.25; local treasury $0.25.

(f) YOUTH MEMBERSHIP WITH CRISIS (for persons under 17 years of age) $2.00; to National Office $1.75; local treasury $0.25.

(g) Each membership, contribution or donation of $5.00 or more, shall be divided as follows:

(1) $2.00 to the National Office to cover actual cost of THE CRISIS and other national literature regularly received by such members.

(2) The balance in excess of $2.00 to be divided equally [fol. 133] between the soliciting Branch and the National Office.

Section 5—Life Membership (a) LIFE MEMBERSHIP of $500 or more shall be divided as follows: three-fifths ($300.00) to the National Office, two-fifths ($200.00) to the Branch, provided the Life Membership is solicited through the local Branch.*

Junior Life Membership (b) JUNIOR LIFE MEMBERSHIP of $100 for children twelve (12) years of age and under, shall be divided as follows: three-fifths ($60.00) to the National Office, two-fifths ($40.00), to the Branch, provided the Junior Life Membership is solicited through the local Branch.**

(c) The Branch may use its share of the Life Membership and Junior Life Membership for local purposes wherever and whenever needed.***

Section 6—State and Regional Assessments Wherever the Branch comes within the jurisdiction of a state or regional conference, assessments on the Branch for support of the conference shall be paid into the National Office and transmitted by the National Office to the treasury of

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* *Amended by National Board of Directors, Sept. 8, 1947.*

** *Established by National Board of Directors, June 26 and Sept. 9, 1957.*

*** *Amended by Convention June, 1956.*

the state or regional conference. The amount of such assessments shall be determined by the state or regional conference with the approval of the National Board of Directors.

The National Office will match local assessment for State Conferences; provided that the National Office assessment shall not exceed ten cents (10¢) per member where the Branch assessment is ten cents (10¢) or more per member; and provided further that the National Office receives written request for such payment from the State Conference.*

[fol. 134] Section 7—Other Funds The net proceeds of each entertainment or fund-raising effort by a branch shall be divided equally between the Branch and the National Office, unless written permission is obtained from the National Office for some different division; provided, that the entire net proceeds of any fund-raising effort for exclusively national purposes shall be transmitted to the National Office.

A financial report of all such entertainments and activities shall be rendered to the Branch, the National Office and the public.

Article VI.

Meetings

Section 1—Regular Meetings Regular meetings of the Branch shall be held at least once a month, and such other public or special meetings as may be required. Regular meetings shall be held on a fixed day or date of each month.

Section 2—Annual Election Meeting The Annual Election Meeting, which may coincide with the regular meeting of the Branch, shall be held between November 1 and December 15, unless the time of the meeting is changed with the written approval of the National Office.

Section 3—Notice Written notice of time and place of the Annual Election Meeting shall be sent by the Secretary, at least seven (7) days prior to the date of the Meeting, to each member of the Branch in good standing.

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* *Amended by National Board of Directors, Sept. 8, 1947.*

Notice of the regular monthly or special meetings shall be sent to each member in good standing in writing, or published in some local newspaper of adequate circulation.

Section 4—Special Meetings Special meetings may be called at any time and place on three days' written notice to all members by direction of the President, or of any three [fol. 135] members of the Executive Committee; or on failure of these to a[illegible], by any ten members of the Branch.

Section 5—Executive Committee The Executive Committee shall meet at least once a month at such times and places as it may determine. Special meetings of the Executive Committee may be called by the President, the Chairman of the Committee, the Secretary, or by two members of the Committee, on two days' written notice.

Section 6—Standing Committees The Standing Committees shall meet regularly once a month at places they may determine.

They shall inform the Chairman of the Executive Committee and the President, if no Chairman of the Executive Committee is elected, of the time and place of meeting.

Special meetings may be called by the chairman or by two members on two days' written notice. All standing committees shall report each month to the Executive Committee at its regular meeting.

Section 7—Adjourned Meetings In the event a quorum is not present at any regular or special meeting of the Branch or committee of the Branch, those present at the time and place announced for said meeting, may adjourn the same from time to time to a day, hour and place certain, and without further notice all business which might lawfully have been transacted at the original meeting may be transacted at the adjourned meeting.

Article VII.

Quorum

The number of members necessary to constitute a quorum at all meetings shall be decided upon by a resolution adopted by the Branch.

Article VIII.

Order of Business

Unless altered or suspended at any meeting by a majority of the members present, the following shall be the order of [fol. 136] business at meetings of the Branch:

Ascertainment of members present
Reading of minutes of previous meeting
Reports of officers
Reports of committees
Elections
Unfinished business
New business

Rules of procedure as laid down in Robert's Rules of Order shall govern the Branch except as otherwise herein provided.

Article IX.

Removal of Officers

Section 1—Branches Failing to Report If a Branch fails to report to the National Office for a period of four consecutive months, the National Board of Directors may declare any or all of the offices of the Branch vacant and order a new election.

Notice of removal shall be sent to the President, Secretary, and Treasurer of the Branch by registered mail at their last addresses on file in the National Office and shall be published in the official organ of the National Association. Immediately upon the service of notice by the National Office, the officers shall perform no official act and shall hold all records and monies of the Branch, subject to the disposition of the National Office.

Section 2—Neglectful and Unfit Officers The National Board of Directors upon satisfactory evidence that the officer is guilty of gross neglect of his official duties, or of such conduct as would be inimical to the best interest of the National Association for the Advancement of Colored People or of the Branch, shall instruct the Executive Committee to declare such office vacant and hold a new election by

[fol. 137] the Branch for said office within thirty days. If said Executive Committee fails or neglects to remove said officers within thirty days, the National Board of Directors may declare such office vacant and conduct a new election.

The charges against the officer must be preferred in writing and signed by the person or persons making the same, and forwarded to the National Office. Immediately on receipt of the same, the Secretary of the National Association shall forward a copy of the charges by registered mail to the officer at his last address on file in the National Office. No action shall be taken on the charges until fifteen days after the copy should have reached the officer by ordinary course of post. He shall be entitled within the fifteen days to file with the National Office his answer in writing to the charges. The National Board of Directors reserves the right to hear and act on the charges and defense of written statement, affidavit or oral testimony as in its judgment justice may require.

Notice of the findings and action of the Board shall be sent to the officer by registered mail at his last address on file in the National Office and, in the discretion of the Board of Directors, published in the official organ of the National Association. Immediately upon the entry of the National Office into the matter, the officer shall perform no official act and shall hold all records and monies of the Branch subject to the disposition of the National Office.

Article X.

Suspension and Revocation of Charter

Section 1—Suspension and Revocation The Charter of authority received by the Branch upon its admission to the National Association for the Advancement of Colored People, may be suspended or revoked by the Board of [fol. 138] Directors of the Association whenever the Board shall deem it for the best interest of the Association, provided however that a full hearing on charges be held before the National Board of Directors, at which the Branch may be represented by person or persons of its choice. Such

revocation shall not invalidate the membership of any member of the Branch in the National Association.

Section 2—Notice of Suspension Notice of the findings and action of the Board shall be sent by the Secretary of the Association, by registered mail, to the President and Secretary of the Branch, and may be published in the official organ of the National Association. In case the Charter of the Branch is suspended or revoked upon receipt of notice by the President or Secretary by mail, publication, or otherwise, the Branch shall cease to function and the officers shall forthwith forward all records, property and monies of the Branch to the National Office where the same may be applied in its discretion for the benefit of the community wherein the Branch was located.

Article XI.

By-Laws

With the written approval of the National Board of Directors previously obtained, a Branch may adopt or amend By-Laws not inconsistent with this constitution or the constitution of the Association; Provided, that (1) notice in writing of the proposed amendment shall be given to all members at least seven days prior to the meeting at which the same is to be acted upon; or that (2) the proposed amendment shall be approved at two successive regular meetings of the Branch.

This constitution may be amended by a two-thirds vote [fol. 139] of any Annual Convention of the Association, provided the proposed amendment be submitted to the Board of Directors of the Association at least sixty days prior to the convention and the Secretary shall publish same in the official bulletin of the Association.

Article XII.

Authorized Committees

Groups of seven or more individuals in communities too small to maintain a branch of the Association may be authorized by the Board of Directors to work as Authorized Committees of the National Association for the Advance-

ment of Colored People carrying out its purposes ond objects and raising funds for its support as does a Branch, subject to such rules and regulations as the National Board of Directors may enact.

It shall receive from the National Office a Certificate of Authority.

Article XIII.

Youth Councils and Junior Youth Councils

Section 1—Youth Councils Branches of the Association may organize Youth Councils and Junior Youth Councils which shall be subordinate to the Executive Committee and under the immediate supervision of the Youth Work Committee.

Section 2—Adviser There shall be a Senior Adviser to the Youth Council and a Senior Adviser to the Junior [fol. 140] Youth Council in conformity with the rules of the Association. The Adviser must be a member of the Senior Branch or a member at large of the Association.

Section 3—Selection of Adviser Not more than three names shall be sent by the Youth Council to the Senior Branch of persons which the group feels will work best with them as Adviser. The Senior Branch must select from the submitted names the Adviser to the Youth Council.

Section 4—Branch-Youth Council Relationship Youth Councils are clearly subordinate to Branches insofar as they initiate programs and procedures not previously approved by action of the National Board of Directors or by resolution passed at National Conventions of the Association.

Youth Councils must secure prior approval of the Executive Committee of the Branch before engaging in projects involving litigation or legislation.

Section 5—Branch-Youth Council Controversies Within fifteen (15) days after a controversy arises between a Youth Council and a Senior Branch, the senior adviser, the presidents and secretaries of both units shall prepare and forward signed report(s) to the executive secretary of the

Association for arbitration, decision or referral to the appropriate regional office or state conference for investigation and other action.

Respective parties shall send copies of all reports submitted by them to state conference or regional office and to the other party to the controversy. The original report to the executive secretary shall contain a statement that copies have been forwarded as provided above.*

[fol. 141]

Article XIV.

Woman's Auxiliary

Branches of the Association may organize a Woman's Auxiliary subject to the control of the Executive Committee and to such rules and regulations as the National Board of Directors may enact.

Article XV.

Section 1—Non-Limitation of National Association No indebtedness or obligation shall be incurred by the Branch or any of its officers or agents in the name of the National Association for the Advancement of Colored People, and the National Office shall not be responsible for any indebtedness or obligation incurred by the Branch or by any of its officers or agents.

Section 2—No indebtedness or obligation of more than fifty dollars shall be incurred in the name or behalf of the Branch unless by vote of the Executive Committee.

Article XVI.

Fiscal Business Year

Section 1—Schedule The fiscal and business year of the Branch shall begin January 1 and end December 31.

Section 2—Installation of Officers The officers elected at the annual meeting shall be installed at the next regular meeting of the Branch following the election.

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* *Amended by Convention June, 1953. Approved by National Board Oct. 13, 1953.*

[fol. 142] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action Number:

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, Plaintiffs,

versus

WADE O. MARTIN, JR., SECRETARY OF STATE, STATE OF LOUISIANA, ET AL., Defendants.

AFFIDAVIT—Filed November 13, 1959

State of Louisiana
Parish of Caddo

Before me, Jesse N. Stone, Jr. a Notary Public, personally came and appeared Joseph N. Blankenship, a resident of full age of majority of Bienville Parish, Louisiana who, being first by me duly sworn, deposes and says:

That he is a retired school teacher residing in Bienville Parish, Louisiana; that he is a member of the National Association for the Advancement of Colored People and is a member of the Board of Directors of the Louisiana Conference of branches of the National Association for the Advancement of Colored People; that he holds and has held an active membership in the Shreveport Branch of the National Association for the Advancement of Colored People since April of 1959 and that he knows of his own personal knowledge that there are other people who desire to acquire membership in the National Association for the Advancement of Colored People and who would acquire membership in the National Association for the Advancement of Colored People but who have failed and refused to do so because of fear of intimidation, economic reprisals and in some instances fear of physical injuries to themselves or to their families, and that he knows of instances in

which persons have been intimidated and in which economic reprisals have been taken against them because of their membership and their connection with the National Association for the Advancement of Colored People.

Affiant further says upon his oath that during 1956 he was a member of the Friendship Branch of the National Association for the Advancement of Colored People and that said branch had a total membership of approximately sixty (60) members; that an injunction issued out of the District Court in East Baton Rouge Parish enjoining the [fol. 143] National Association for the Advancement of Colored People from carrying on its activities in the Louisiana and that the branch disbanded; that later when the members of the said Friendship Branch learned that the branch could operate upon filing its membership list with the Secretary of State only approximately seven (7) persons were willing to acquire membership and have their names made public and that affiant is informed and knows of his own personal knowledge that many persons refused to acquire active membership in the said Friendship Branch and have their names made public for fear of intimidation, economic reprisal and because of fear of bodily injuries to themselves and/or to their families.

Joseph N. Blankenship

Sworn to and subscribed before me on this 10th day of November, A. D. 1959.

Jesse N. Stone, Jr., Notary Public, In and For Caddo Parish, Louisiana.

(Seal)

[fol. 144] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action No. 1678, Baton Rouge Division

STATE OF LOUISIANA,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

---

Civil Action No. 8554, New Orleans Division

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

AFFIDAVIT—Filed November 13, 1959

State of Louisiana
Parish of Orleans

Before Me, the undersigned authority personally came and appeared Mrs. Doretha Cambre, a resident of Lake Charles, Louisiana, who, being by me first duly sworn deposed and said:

That she is president of the Louisiana State Conference of Branches of the National Association for the Advancement of Colored People, commonly referred to as the NAACP; that she is also a member of the Board of the Directors of the said NAACP, a non-profit membership Corporation with its principal offices in New York, New York.

That, as president of the State Conference of Branches, she has become the target of many threatening phone calls and anonymous letters.

[fol. 145] That the injunctions filed by the State of Louisiana against the NAACP have hindered and in many areas thwarted progress of the organization in terms of membership and promotion of a program to advance the cause of the Negro in Louisiana for full citizenship rights.

That many persons who would become members of the NAACP have refused to join for fear that publication of the names and addresses required by LSA R.S. 12:401-409 would result in their being subjected to economic reprisals intimidations, threats and even physical harm.

As a result this organization has been practically destroyed in this State.

That she annexes hereto as exhibits various newspaper articles and other documents evidencing the anti NAACP atmosphere in Louisiana.

Mrs. Doretha Cambre

Sworn to and subscribed before me this 13th day of November, 1959.

A. P. Tureaud, Notary Public.

[fol. 146]

CITIZENS' COUNCIL
FOURTH CONGRESSIONAL DISTRICT
STATE OF LOUISIANA

MEMORANDUM: TO ALL TEACHERS AND PUBLIC OFFICIALS, FOURTH CONGRESSIONAL DISTRICT OF LOUISIANA

SUBJECT: ENCLOSED QUESTIONNAIRE

Attached are two copies of a questionnaire prepared in accordance with a resolution adopted at a meeting of the Fourth Congressional District Citizens' Council on November 25, 1958.

The purpose of this questionnaire is to determine your position on the vital matter of the separation of the races in the State of Louisiana. It is the feeling of this organiza-

tion that everyone in positions of public responsibility who would be directly involved in the event an attempt is made to integrate any of the schools or other public facilities in the Fourth Congressional District should have the opportunity of making known his position with regard thereto.

By the same token, it is felt that the public, and especially that part of it represented by this organization, is entitled to know how each of the teachers and public officials feel on this matter. Your cooperation in this undertaking will be a distinct public service, and will be deeply appreciated by those of us who are sponsoring this program.

Will you please complete the enclosed questionnaire as promptly as possible, and return to the undersigned, at the address given?

CITIZENS' COUNCIL
FOURTH CONGRESSIONAL DISTRICT

J. D. Waggonner, Jr., Chairman
Post Office Drawer B
Plain Dealing, Louisiana

JDW: fpm
Enclosure

[fol. 147]

CITIZENS' COUNCIL
FOURTH CONGRESSIONAL DISTRICT
STATE OF LOUISIANA

QUESTIONNAIRE

1. Do you favor segregation of the white and Negro races in the public schools? .....
   If your answer is "No," please explain your position briefly:
   .....
   .....

2. Do you favor segregation of the white and Negro races in other publicly owned properties? .....

If your answer is "No," please explain your position briefly:

.....

.....

3. Are you familiar with the objectives of the Citizens' Council organization in the State of Louisana? .....
4. If your answer is "Yes," please state whether or not you are a member of, or contribute financially to, the support of this organization? .....
5. Are you familiar with the objectives of the N.A.A.C.P.? .....
6. If your answer is "Yes," please state whether or not you are a member of, or contribute financially to, the support of this organization? .....

PLEASE SIGN .....

POSITION .....

PARISH .....

DATE .....

Please complete and return promptly to:

J. D. Waggonner, Jr., Chm.
Post Office Drawer B
Plain Dealing, Louisiana

ol. 14

Zen

PRICE TEN CENTS

Local NAACP Files 24 Member List With Secretary Of State

A membership list of the Red River Parish branch of the National Association For The Advancement of Colored People was made available this week after the group filed its membership list with the Secretary of State.

The list showed only twenty-four Red River persons as members of the national organization. They are mostly from Ward 7.

Members are: L. A. Durham, Ben Hall, Carl James, Johnnie Speed, Emily Speed, Frank Luke Lorinna Luke, Tom Monroe, Fred Harvey, David Bilton, Elmo Williams, Tom Turner, Joe Davis, T. J. Turner, Orlean Turner, Joe Davis Jr., Jim Moss Frank Davis, Erma L. Williams Jessie Turner, Dello B. Turner, Lela Moss, Mariah Turner and George Simmons.

Filing of the membership list, a move which has been fought by the NAACP, is mandatory under a 1921 law originally aimed at the Ku Klux Klan. Under it, all organizations except regularly organized churches and National Guard groups must file complete membership lists between December 16 and Dec 31 of each year.

The Red River Parish Citizen's Council also filed a membership list under the law. President of the Council, Attorney George Anderson said his group filed a list of 300 members and that mimeographed lists are available to anyone desiring them.

[fol. 149]

The Column On The Left

111

The Coushatta Citize

86th Year

Friday, February 14, 1958 The Coushatta CIT

The second list of Red River NAACP members filed in the Secretary of State's office (see story this page) is all in all a pretty smelly business. And there be seven sides to this coin. It could be that some colored folks were trying to have their cake and eat it too: they joined on the QT, then hollared 'framed' when they found out the extent of intimidation involved with being linked with the NAACP.

What's more likely is that conversation between Joe and Buck (this page) is typical. Certainly even the NAACP isn't crazy enough to make a skirmish line of Red River for their recruiting, tho 80 members here as compared to other parishes sure caused some lifted eyebrows.

Also, the second list isn't worth the paper its photostated on because it isn't (1) handwritten (2) sworn to, or (3) filed between legal dates. The Secsetary of State says he never rules on such things, simply files them. If action is to be taken it's taken by the Attorney General.

Neither the Citizens Council nor State Senator Willie Rainach were up on the law enough to catch the 'invalid' list. This list could well have been a plant of the NAACP designed to bring about hot-headed intimidation of innocent colored people who, disinherited by their white friends, will make straight into the camp of the NAACP. A darn good strategy, incidentally. Like getting your enemy to turn his guns from you on to his allies. Rainach and the Council will do well in the future to distinguish between Dep't of Historical Notes: Yankee banks close on Lincoln's birthday, do not close on Lee's birthday. Rebel banks close on Lee's birthday do not close on Lincoln's.

NAACP Roster Here Swells Then Shrinks As Negroes Find Names, Hurry To Get O

There was a spurt of activity this week in Red River Parish (the second smallest parish in Louisiana) over the fact that the place seems to have turned into a bee hive of activity for the National Association For The Advancement of Colored People.

Red River, according to the Secretary of State's office, has a whopping 80 members. DeSoto Parish has 30, Jonesboro has 5 members, Caddo about 20, etc.

About a month ago, the CITIZEN published an official list from the Secretary of State's office listing 23 members for the parish.

Available now at the Secretary's office is an additional list of 56 new names of Parish NAACP members.

A Buggar In Woodpile

However, this latest addition to the parish roster of NAACP members has certain aspects about it which leads the CITIZEN reporter investigating it to the conclusion that there is a buggar in the woodpile.

For one thing, the entire list is invalid: it was typed when it should have been written by hand; it was not certified under oath by one of the group's officers; and it was filed too late to qualify for the filing period between December 16 and December 31, all this is covered by Revised Statutes of 1950, T-12, S-401.

Something It Ain't

Further, several colored persons interviewed said they were led into believing the sign-up was anything but the controversial NAACP. Buck Lamkin, for instance, claims he was signed up by Joe Davis Sr. after the following exchange:

BUCK: Well, is this a church group?

JOE: Well, not exactly but it's kinda like that. And it don't cost anything and it's for a worthy cause.

BUCK: Well, if it's for a worthy cause and it don't cost anything better, sign me up.

The entire list now filed in the Secretary of State's office includes: L. A. Durham, Ben Hall, Carl James, John Speed, Emily Speed, Frank Luke, Lorimer Luke, Tom Monroe, Fred Harbey, David Bilton, Elmo Williams, Tom Turner, Joe Davis, T. J. Turner, Orlean Turner, Joe Davis Jr., Jim Moss, Frank Davis, Jessie Turner, Emma Williams, Delia Turner, Leoa Moss, Mariah Turner and George Simmons. This is the certified, signed and valid list.

In addition are the following names of the latest invalid list.

Egan Cole, Edd Stafford, Louis Milton, Joseph Williams, Joe Keth Jr., Willie Jenkins, Fred Allen, Emmer L. Johnson, Aaron Anderson, Alex Owens, Freeman Tucker Jr., Andrew Johnson, John L. Demery, Henry Carter, Robert L. Johnson, James Griffen Jr., Earnest Demery, Fred Allen, Bill Caesar, Wisby Odom, George Kints, Bill Sibley Jr., Robert Allen Jr., Andrew Fortson, the Rev. K. P. Jones, Bennie Lewis, Tobe Smith, John Webb, Mattie Webb, Jimmie Johnson, Bobby Presley, Buck Lampkin, Kie Brewer, Wilbert Gary, John Hobley, Turk Hill, R.O. Clark, Lewis Carroll, Phillip Smith Jr., Bemon Sion, James Speed, Betho Young, Tom Hall James Soyon, Charlie Bolton, Major Stafford, C.P. Paulson, Walter Holmes, Charlie Eavens, Willie Jefferson Jr., Roberson Johnson, Charles Edward, Willie Smith, Margie Smith, George Simon Sr., Elmo Williams, L. A. Durham Ben Hall, John W. Speed, Emily Speed, Frank Luke, Loriner Luke, Tom Monroe, Fred Harvey, David Bilton, Elmo Williams, Tom Turner, Joe Davis, T. J. Turner, Orlean Turner, Joe Davis Jr., Jim Moss, Frank Davis, L. Williams, Jessie Delta B. Turner, Lela Moriah Turner and Simmons.

Want Off Rolls

At present there is a ing to get off the membership roll. Wro James, a retired janito East Point colored "I want my name fr honor roll for I have Red River since 1904 my white friends s think well of me and want any enemies".

Len Bailey was ha petition notorized to the Secretary of Stat said in part: "It was intention to become n of this organization names were erroneous in your office." Signi petition were: Louis Charlie Bolton, Bobb Persley, Freeman Tuc Bill Sibley Jr., Rober son, Margarete Smith Smith, Jessie Spears, Simmons Jr., Andrew James Griffin Jr., Evans, Phillip Smith nest Demery, George Jimmie Johnson, Buck kin, Turk Hill, John Kie Brewer, Alex Ow Kett Jr, R.C. Clark an Carter.

a Citizen

y, February 14, 1958 The Coushatta CITIZEN PRICE

vells Then Shrinks, s, Hurry To Get Off

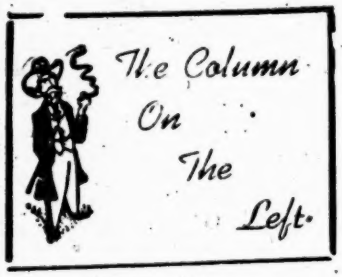
ıames of the latest invalid

ran Cole, Edd Stafford, s Milton, Joseph Will-, Joe Keth Jr., Willie Jen-. Fred Allen, Emmer L. ıson, Aaron Anderson, Owens, Freeman Tucker Andrew Johnson, John L. ıery, Henry Carter, Rob-L. Johnson, James Griffen Earnest Demery, Fred n, Bill Caesar, Wisby m, George Kints, Bill Sib-Jr., Robert Allen Jr., And-Fortson, the Rev. K. P. es, Bennie Lewis, Tobe th, John Webb, Mattie ob, Jimmie Johnson, Bob-Presley, Buck Lampkin, Brewer, Wilbert Gary, n Hobley, Turk Hill, R.O. ck, Lewis Carroll, Phillip th Jr., Bemon Slon, James ed, Betho Young, Tom Hall ıes Soyon, Charlie Bolton, lor Stafford, C.P. Paulson, lter Holmes, Charlie Eav-, Willie Jefferson Jr., Rob-on Johnson, Charles Ed-rd, Willie Smith, Margie ith, George Simon Sr., no Williams, L. A. Durham ı Hall, John W. Speed, ily Speed, Frank Luke, ciner Luke, Tom Monroe, ed Harvey, David Bilton, no Williams, Tom Turner, Davis, T. J. Turner, Or-n Turner, Joe Davis Jr., Jim Moss, Frank Davis, Emma L. Williams, Jessie Turner, Delta B. Turner, Lela Moss, Moriah Turner and George Simmons.

Want Off Rolls

At present there is a scurrying to get off the NAACP membership roll. Wrote Carl James, a retired janitor at the East Point colored school, "I want my name from the honor roll for I have been in Red River since 1904 and all my white friends seem to think well of me and I don't want any enemies".

Len Bailey was having a petition notorized to send to the Secretary of State which said in part: "It was not our intention to become members of this organization and our names were erroneously filed in your office." Signing the petition were: Louis Milton, Charlie Bolton, Bobby Ray Persley, Freeman Tucker, Jr. Bill Sibley Jr., Robert Johnson, Margarete Smith, Willie Smith, Jessie Spears, George Simmons Jr., Andrew Fortson James Griffin Jr., Charlie Evans, Phillip Smith Jr., Ernest Demery, George Kert, Jimmie Johnson, Buck Lampkin, Turk Hill, John Hobley Kie Brewer, Alex Owens, Joe Kett Jr, R.C. Clark and Henry Carter.



In case anyone asks, you can say you saw it in the CITIZEN first. Colored people are still signing up to be taken off the NAACP rolls. Latest batch in this issue. From other parts of North Louisiana, colored people are sending in petitions, all of them stating definitely that "we never signed up or intended to be on the NAACP roster".

The Coushatta

Friday, February 21, 1958

Forest F
Red Rive

Farm Bureau Meeting

The Red River Parish Farm Bureau will meet on Febru... 27 for the purpose of electing officers, says Billy Townsend, Secretary-Treasurer of the organization.

The meeting will be held in the American Legion Home.

Names Are Removed From NAACP Roster

Lynn Bailey said this week that the following names had been added to the list being mailed to Secretary of State asking removal from the NAACP roster: James Speed, Aron Anderson, Louis Carroll, Betho Young, Tom Hall, Willie Caesar, Tobe Smith, Wilbert Gary and Bennie Lewis.

[fol. 151] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action Number:

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL., Plaintiffs,

versus

WADE O. MARTIN, JR., SECRETARY OF STATE, STATE OF LOUISIANA, ET AL., Defendants.

AFFIDAVIT—Filed November 13, 1959

State of Louisiana
Parish of Caddo

Before me, the undersigned authority, personally came and appeared Frank Davis a resident of full age of majority of Red River Parish, Louisiana who being first by me duly sworn, deposed and said:

That he is a resident of full age of majority of Red River Parish, Louisiana, and that during the year of 1958 he operated a cafe in the town of Coushatta, Louisiana; that his father was among the persons who were soliciting active memberships for the Red River Parish Branch of the National Association for the Advancement of Colored People and that he acquired a membership in said branch; that after the list was made public the person who collected the rent for the owner of the premises leased by affiant in connection with his business came to him and informed affiant that he had learned of his connection with the National Association for the Advancement of Colored People and advised him that it would be necessary for him to move unless he severed with the National Association for the Advancement of Colored People; that affiant refused to sever his connection with the National Association for the Advancement of Colored People and he advised said rent collector that he would not sever his connection with the

National Association for the Advancement of Colored People; that later the said rent collector returned with the Mayor of the town of Coushatta and affiant was advised by the Mayor that it would be necessary for him to close his business each night at 8:00 P. M. and that he would have persons in authority to watch him for the purpose of seeing to it that he complied with the orders of said [fol. 152] Mayor; that other businesses of a like nature and kind were permitted to remain open as long as the proprietors or owners thereof deemed it necessary and/or profitable; that as a result of these actions taken against affiant because of his connection with the National Association for the Advancement of Colored People he lost more than Fifty (50) per cent of his business; that affiant was further advised by the person who collects for the person from whom he rented that his father could no longer visit him on the leased premises because of his connection with the National Association for the Advancement of Colored People; that the landlord sought to raise the rent from Twenty-five and No/100 ($25.00) Dollars per month, a sum for which the premises had been leased for a period of more than two and one-half (2½) years, to Thirty-five and No/100 ($35.00) Dollars per month and eventually, because of the economic pressures brought to bear upon affiant and because he lost more than Fifty (50) per cent as a result of the restrictions imposed upon him it became necessary for him to close his business altogether and that affiant has knowledge of other persons who were similarly intimidated and against whom economic reprisals were brought solely because of their connection or association with the National Association for the Advancement of Colored People, and that when a person attempted to lease the premises held by affiant said person was advised by the rent collector that affiant and his father would not be permitted upon the leased premises.

Frank Davis.

Sworn to and subscribed before me on this 10th day of November, A. D. 1959.

Jesse N. Stone, Jr., Notary Public In And For Caddo Parish, Louisiana.

[fol. 158]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

AFFIDAVIT—Filed November 13, 1959

State of Louisiana
Parish of Caddo

Before me, the undersigned authority, personally came and appeared W. C. Flanagan, a resident of full age of majority of Jackson Parish, Louisiana, who after being first by me duly sworn, said:

That he was a member of the Friendship Branch of the National Association for the Advancement of Colored People during 1956 and that after the National Association for the Advancement of Colored People was enjoined from carrying on its activities in the state of Louisiana the Friendship Branch of the National Association for the Advancement of Colored People disbaned [sic], that later he and other persons interested in helping to carry on the work and activities of the National Association for the Advancement of Colored People learned that these activities could be carried on upon filing a membership list with the Secretary of State and that he and others made an effort to acquire members for the Friendship Branch of the National Association for the Advancement of Colored People and contacted many persons in this effort and that virtually all of the persons contacted refused to join the Friendship Branch of the National Association for the Advancement of Colored People giving as reasons for their refusal their fear of intimidation, economic reprisals and bodily harm, and that they were successful in acquiring the membership of only approximately seven (7) persons.

W. C. Flanagan.

Sworn to and subscribed before me on this 10th day of November, A. D. 1959.

Jesse N. Stone, Jr., Notary Public, In and For Caddo Parish, Louisiana.

[fol. 154] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action No. 1678, Baton Rouge Division

STATE OF LOUISIANA,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.

Civil Action No. 8554, New Orleans Division

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.,

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

AFFIDAVIT—Filed November 13, 1959

State of New York)
)ss:
County of New York)

Gloster B. Current, being duly sworn hereby deposes and says:

1. For the past thirteen years, I have been employed by the National Association for the Advancement of Colored People, at its principal offices in New York, as Director of Branches. This position entails the supervision and direction of organizing and program activities of more than one thousand branches in forty-five states, the organization and programming of youth groups, as carried out through the various divisions of the Branch Department, headed by the deponent and including the

membership secretary, youth secretary, regional and field secretaries.

2. In my official capacity as Director of Branches, I am intimately involved in the conduct of memberships and fund-raising campaigns by NAACP affiliates throughout the [fol. 155] United States, including the State of Louisiana. In general, except where a paid field secretary is engaged, such campaigns and general NAACP activity is carried out by volunteers.

3. In soliciting members and funds, NAACP members bring to my attention and to the attention of other staff personnel, the climate of opinion within the various states; responses of members to appeals and any other information bearing upon the effective functioning of our work.

4. In 1956, an injunction was issued against the Association in Louisiana for failure to comply with a 1924 law requiring the filing of the names and addresses of NAACP members in the State with the Secretary of State as a public record. This law, which required exposure of the names of members of the Association, caused grave concern within the leadership and membership of our branches and youth groups; and caused many, such as teachers and civil servants and others who were amenable to pressures from employers, state and local authorities not in sympathy with the NAACP; and from organizations whose sworn purpose is to harass and intimidate and otherwise hamper individually and collectively the operations of the NAACP, to refuse to join or otherwise participate in the work of the Association or its branches in the State of Lousiana. Prior to this injunction, the Louisiana State Conference was one of the most effective in the nation, being second largest in Region VI, which comprises Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

The following table illustrates the loss in membership and income to the National organization since issuance of the injunction, enforcement or threatened enforcement of the statute, and thereafter as a result of the unclear legal status of our operations:

[fol. 156]

STATEMENT OF INCOME AND NUMBER OF MEMBERSHIPS IN LOUISIANA JANUARY 1, 1955–OCTOBER 31, 1959

Year	Amount of Money Received in National Office	Number of Members	Number of Branches
1955	27,216.76	13,190	65
1956	7,756.46	1,738	47
1957	5,064.25	1,698	7*
1958	8,988.39	3,630	11
1959	9,995.42	2,644	14

* reporting memberships not necessarily functioning as branches.

Membership declined from 13,190, adult and youth combined, in 1955 to 1,738, in 1956, a loss of 11,452, or 86 per cent. The 1957 membership was off 11,492 over 1955, or still a loss of 87 per cent. A few branches filed with the Secretary of State in 1957.

In 1958, membership increased to 3,630, twice as many as the previous year. However, this increase was primarily in New Orleans, which reported the major portion of the memberships that year. This increase apparently resulted from the Court of Appeals decision voiding the injunction, and from the decision of the United States Supreme Court in *NAACP* v. *Alabama*, which held that the NAACP did not have to disclose its members to state officials.

At the time the 1959 injunction was issued, New Orleans was in the midst of its membership campaign. The issuance of the injunction caused immediate cessation of this campaign.

Fear of economic and other forms of reprisals on the part of members in the rural parishes, pressure on teachers who formerly were a substantial portion of NAACP mem-
[fol. 157] bers and pressures of varying nature on other members accounted for the reluctance on the part of many who formerly were members to join since 1956. Many known NAACP members and officers have been deprived of their jobs or threatened with loss of employment if found to be members of the organization.

5. The NAACP State Conference and its member branches in the State of Louisiana have been grievously injured to the extent of almost total extinction by injunctive proceedings, by attempts by the State to obtain the list of the Association's members in Louisiana, and by creating a general atmosphere of fear and terror for those who belong to the NAACP or who adhere to its aims.

Not only are the former members afraid to join because of the fear of having their names made public, but the NAACP's prestige has been seriously damaged by the reluctance of other organizations to be associated with it or with its leaders, for fear of damaging the rights of such organizations to function.

6. It is clear that this organization cannot function in Louisiana, with its present anti-NAACP climate of opinion, if there is an enforcement or threatened enforcement of laws requiring the public disclosure of persons who join or contribute to the NAACP. While our branches and youth councils do not operate in secret, and membership in the organization is open to those of the public who adhere to its aims and objectives, the fact that individual's names will be available to hostile forces, able to devise ways and means to punish such persons because of their beliefs and associations, has gravely deterred in Louisiana, participation in NAACP activities.

Gloster B. Current.

Sworn to before me this 12th day of November, 1959.

Richard W. McClain, Notary Public, State of New York, No. 60-7802625, Qualified in Westchester County, Term Expires March 30, 1960.

[fol. 158] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action Number:

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, Plaintiffs,

versus

WADE O. MARTIN, JR., SECRETARY OF STATE, STATE OF LOUISIANA, ET AL., Defendants.

AFFIDAVIT—Filed November 13, 1959

State of Louisiana
Parish of Caddo

Before me, Jesse N. Stone, Jr., a Notary Public, personally came and appeared R. L. Williams a resident of full age of majority of Caddo Parish, Louisiana who after being first by me duly sworn, said:

That he is a resident of full age of majority of Caddo Parish, Louisiana and is president of the Shreveport Branch of the National Association for the Advancement of Colored People engaged in business in Shreveport, Louisiana; that he served as president of the Shreveport Branch of the National Association for the Advancement of Colored People from 1944 to 1948 during which time it had an active membership of approximately Fourteen Hundred (1400) members composed of people from many different occupations and professions and that during that time a large number of school teachers and other public employees held membership in the Shreveport Branch of the National Association for the Advancement of Colored People; that he has also served as president of the Shreveport Branch of the National Association for the Advancement of Colored People since June of 1959 and that the said Shreve-

port Branch now has a present membership of approximately Forty (40) persons; that the Shreveport Branch of the National Association for the Advancement of Colored People became inactive during 1956 after an injunction issued in East Baton Rouge Parish enjoining the National Association for the Advancement of Colored People from carrying on its activities in the state of Louisiana; that [fol. 159] when it resumed its activities, many people refused to join the Shreveport Branch of the National Association for the Advancement of Colored People and gave as reasons for their refusal fear of intimidation, economic reprisals and fear of bodily harm to themselves and/or to their families; that many school teachers and other public employees have been requested to join the Shreveport Branch but none have joined and many of them have given as their reason or reasons for refusing to do so their fear of intimidation, economic reprisals and/or bodily harm to themselves and/or to their families and that many domestic employees have also refused to join giving as their reasons for refusing to do so fear of intimidation, economic reprisals and/or bodily harm to themselves and/or to their families; and that many persons have evidenced a desire to make financial contributions to the Shreveport Branch of the National Association for the Advancement of Colored People but have refused to do so for fear that the fact might or could become known and that as a result thereof that they may suffer economic reprisals and/or intimidation.

R. L. Williams.

Sworn to and subscribed before me on this 10th day of November, A. D. 1959.

Jesse N. Stone, Jr., Notary Public, In and For Caddo Parish, Louisiana.

[fol. 160] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action Number:

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, Plaintiffs,

versus

WADE O. MARTIN, JR., SECRETARY OF STATE, STATE OF LOUISIANA, ET AL., Defendants.

AFFIDAVIT—Filed November 13, 1959

State of Louisiana
Parish of Caddo

Before me, Jesse N. Stone, Jr., a Notary Public in and for Caddo Parish, Louisiana duly qualified, commissioned and sworn, personally came and appeared Rev. Lee Andrew Durham, a resident of full age of majority of Red River Parish, Louisiana, and who is an ordained minister of the Gospel who, being first by me duly sworn, deposed and said:

That he is president of the Red River Parish Branch of the National Association for the Advancement of Colored People; that the Red River Parish Branch of the National Association for the Advancement of Colored People was organized approximately ten (10) years ago at which time affiant was elected its president and that at all times prior to 1956 the Red River Parish Branch of the National Association for the Advancement of Colored People has had an average of more than One Hundred (100) persons holding active membership in said organization; that during the year of 1956 the Red River Parish Branch of the National Association for the Advancement of Colored People was led to believe that it was necessary to file a list of the names of all persons holding active member-

ships in the said Red River Parish Branch of the National Association for the Advancement of Colored People and that the said branch witnessed a sharp decline in the number of its active members and that many persons who were asked to join the National Association for the Advancement of Colored People refused to do so giving as their reasons therefore, their fear of intimidation, economic reprisals and/or fear of bodily harm to themselves and/or [fol. 161] to their families; that after the filing of the membership list by the said Red River Parish Branch of the National Association for the Advancement of Colored People many of the persons whose names appeared on said list were actually intimidated and many had economic reprisals made against them; that affiant knows of his own personal knowledge that some persons lost their jobs solely because of their connection with the National Association for the Advancement of Colored People and that fear of intimidation and of economic reprisals was so great that it became virtually impossible for the Red River Parish Branch of the National Association for the Advancement of Colored People to hold any meetings and it became necessary for this reason for the branch to disband; that prior to the time that it became necessary for the said branch of the National Association for Advancement of Colored [sic] to publish a list of its members; that persons from many different occupations and fields of endeavor held membership in the said branch, but when it became necessary to make the names of its members public it became virtually impossible to obtain the memberships of members of the teaching professions and/or of other public employees and that most of these gave as their reasons for refusing to acquire or to continue their membership with the Red River Parish Branch of the National Association for the Advancement of Colored People their fear of intimidation, economic reprisals and/or harm to themselves and/or their families and that affiant also knows of his own personal knowledge that many persons who held membership in the said branch of the National Association for the Advancement of Colored People and whose names were made public were informed by their employers that if they wanted to keep their jobs

that it would be necessary for them to withdraw their names from said membership list and sever their connection with the National Association for the Advancement of Colored People.

Rev. Lee Andrew Durham

Sworn to and subscribed before me on this 10th day of November, A. D. 1959.

Jesse N. Stone, Jr.
Notary Public

[fol. 162] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action No. 1678, Baton Rouge Division

STATE OF LOUISIANA

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

Civil Action No. 8554, New Orleans Division

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

v.

WADE O. MARTIN, JR., SECRETARY OF STATE, STATE OF LOUISIANA, ET AL.

AFFIDAVIT—Filed November 13, 1959

STATE OF LOUISIANA
PARISH OF ORLEANS

BEFORE ME, the undersigned authority personally came and appeared ARTHUR J. CHAPITAL, SR., who, being by me first duly sworn deposed and said:

That he is the president of the New Orleans branch of the National Association for the Advancement of Colored People; that he has held continuous membership in the said branch since the year 1939;

That prior to the year 1956 there was no demand ever made upon the branch for a list of the members of the branch or for a list of its officers by any official of the State of Louisiana;

That in the year 1956 an injunction was filed by the Attorney General of Louisiana against the Association and several of its officers for failure to comply with the provisions of LRS 12:401-409;

That for the year ending December 31, 1957 a list of officers and members of the New Orleans branch of the Association was filed with the Secretary of State, as a result of a conference with the District Attorney for the [fol. 163] Parish of Orleans who then threatened to institute criminal proceedings against officers and members of the branch unless the said branch complied with LRS 12:401-409;

Since action was commenced and as a result of the publicity which followed, the membership of the branch dropped from approximately 4750 members in 1955 to approximately 1300 in 1957; that prospective members were unwilling to become identified with the Association if their names were to be published because of fear of reprisal, threats and harm;

Also during the time the injunction was pending in 1956 affiant received numerous threatening phone calls and some anonymous threatening letters;

That the branch ceased its meetings during 1956 and resumed meetings after the membership list was filed; that on one occasion New Orleans police patrolled the area of the office of the branch when it was advertised that a meeting of the branch's executive committee would meet;

That in 1958 the Louisiana legislature adopted a statute requiring that, in addition to filing with the Secretary of State its membership list, there should be affixed to said

list an affidavit that none of the officers of the National Association is a member of any organization cited by the House of Congress un-American Activities Committee, or the United States Attorney General, as Communist, Communist front or subversive. LRS 14:385-388

That there are 48 members of the Board of the National Association and affiant is not personally acquainted with many of these officers and would have no way of knowing of their affiliations and, therefore, could not truthfully give such an affidavit.

Arthur J. Chapital, Sr.

Sworn to and subscribed before me this 13th day of November, 1959.

Ernest N. Morial
Notary Public

[fol. 464]

[File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

AFFIDAVIT—Filed November 13, 1959

State of Louisiana
Parish of East Baton Rouge

Before Me, the undersigned authority, a Notary Public, duly commissioned and acting in and for the above parish and state, came and appeared Wade O. Martin, Jr., to me well known, who after being by me duly sworn, did depose and say:

That he is the duly elected, qualified and acting Secretary of State of the State of Louisiana; that as such he has custody of the records of Membership Lists filed with his office in conformity with and pursuant to the provisions of Sections 401 et seq. of Title 12, of the Louisiana Revised Statutes, as amended, and the affidavits required by Act No. 260 of the Louisiana Legislature of 1958;

That according to the records of the office of the Secretary of State, State of Louisiana, there have been 4,191 Membership Lists filed in said office during the calendar years 1957 and 1958, which purport to have been filed in conformity with the provisions of Sections 401 et seq. of Title 12 of the Louisiana Revised Statutes;

That according to said records, there have been 34 affidavits filed pursuant to the provisions of Act No. 260 of 1958, through December 31 of that year;

That according to said records, branches and chapters of the National Association for the Advancement of Colored People which filed Membership Lists in the office of the Secretary of State for the calendar year 1957 are as follows:

Executive Committee for the State
DeSoto Parish Branch
Dillard University Chapter
Jefferson Parish
[fol. 165]
Jonesboro Chapter
Lafayette Chapter
Lake Charles Branch
LaPlace Chapter
Lutcher Branch
New Orleans Branch
Red River Chapter
Shreveport Branch

That according to said records, branches and chapters of the National Association for the Advancement of Colored People which filed Membership Lists in the office of the Secretary of State for the calendar year 1958 are as follows:

Lake Charles Branch
DeSoto Chapter
Jefferson Parish
Lutcher Branch

That according to said records, no filings have been made by the National Association for the Advancement of Colored People, nor any affiliate thereof, in the office of the Secre-

tary of State, which purport to conform to the provisions of Act No. 260 of the Louisiana Legislature of 1958.

Wade O. Martin, Jr., Affiant.

Sworn to and subscribed before me in my office at Baton Rouge, Louisiana, on this the 9th day of January, 1959.

Georgia M. Wallace, Notary Public.

[SEAL]

[fol. 166]

[File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

CERTIFICATES—Filed November 13, 1959

STATE OF LOUISIANA

Wade O. Martin, Jr.

I, the undersigned Secretary of State, of the State of Louisiana, do hereby certify that

it is impossible to determine from the records of this office the number or the name of the defendants against which the Attorney General has brought action under the provisions of R. S. 12:401-409 and R. S. 14:385-388.

[Seal]

Given under my signature authenticated with the impress of my Seal of office, at the City of Baton Rouge, this, 9th day of November A.D. 1959

J. Ruelson, Assistant Secretary of State.

[fol. 167]

STATE OF LOUISIANA

Wade O. Martin, Jr.

I, the undersigned Secretary of State, of the State of Louisiana, do hereby certify that

the number of organizations in Louisiana which have filed membership lists under the provisions of R. S. 12:401-409 since the calendar year 1950 are as follows:

1950	0
1951	0
1952	1
1953	2
1954	2
1955	8
1956	979
1957	1918
1958	1014
1959	517

[Seal]

Given under my signature, authenticated with the impress of my Seal of office, at the City of Baton Rouge, this, 9th day of November A.D. 1959

J. Ruelson, Assistant Secretary of State.

[fol. 168]

STATE OF LOUISIANA

Wade O. Martin, Jr.

I, the undersigned Secretary of State, of the State of Louisiana, do hereby certify that

it is impossible to determine from the records of this office the number of organizations in Louisiana subject to the provisions of R. S. 12:401-409 and R. S. 14:385-388.

We are not able to locate a section entitled R. S. 12:385-388.

[Seal]

Given under my signature, authenticated with the impress of my Seal of office, at the City of Baton Rouge, this, 9th day of November A.D. 1959

J. Ruelson, Assistant Secretary of State.

[fol. 169]

STATE OF LOUISIANA

Wade O. Martin, Jr.

I, the undersigned Secretary of State, of the State of Louisiana, do hereby certify that

the number of organizations in Louisiana who have filed affidavits under the provisions of R. S. 14:385-388 are as follows:

1958	111
1959	119

[Seal]

Given under my signature, authenticated with the impress of my Seal of office, at the City of Baton Rouge, this, 9th day of November A.D. 1959

J. Ruelson, Assistant Secretary of State.

[fol. 170].

[File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

AFFIDAVIT—Filed November 13, 1959

State of Louisiana :
Parish of East Baton Rouge :

Before Me, the undersigned authority who is duly qualified to administer oaths in such manner, personally came and appeared, Jack P. F. Gremillion, who, after being duly sworn, did depose and say:

That he is the duly elected, qualified and commissioned Attorney General in and for the State of Louisiana; that he is making this affidavit to comply with an order of the United States District Court, Eastern District of Louisiana, in the suits entitled State of Louisiana vs. National Association for the Advancement of Colored People, et al., Civil Action No. 1678, Baton Rouge Division, and the New Orleans Branch of the National Association for the Advancement of Colored People, et al., vs. Wade O. Martin, Jr., Secretary of State, State of Louisiana, et al., Civil Action No. 8554, New Orleans Division.

That the records of the Attorney General's Office show that in the year 1956 the State of Louisiana on relation of the then Attorney General, Fred S. LeBlanc, brought suit against certain officers and members of the National Association for the Advancement of Colored People and the National Association for the Advancement of Colored People itself in the 19th Judicial District Court, Parish of East Baton Rouge, Louisiana, bearing Docket No. 55,899, Division "D", to enjoin certain officers and members of the National Association for the Advancement of Colored People from conducting any business or acting as a corporation in the State of Louisiana until they had complied with the provisions of R.S. 12:401-409.

Your affiant upon taking office as Attorney General was requested to determine what organizations would come under the provisions of R.S. 12:401, et seq. That in order to effectually determine this question, your affiant discussed the matter with persons who were members of the Legislature at the time said statute was enacted herein, and that he further carefully studied newspaper articles and other publications available which would enlighten him as to the circumstances surrounding enactment of the statute, some of which are annexed hereto and made part hereof.

[fol. 171] That on October 9, 1959 the State of Louisiana on relation of Jack P. F. Gremillion, filed a suit entitled State ex rel., Jack P. F. Gremillion, Attorney General vs. Shreveport Branch of the National Association for the Advancement of Colored People, et al., in the First Judicial District Court, Caddo Parish, State of Louisiana, bearing Docket No. 14,125, asking that a temporary restraining order issue therein enjoining and prohibiting the defendants, their agents, etc., from holding any meetings of any officers and/or members of the National Association for the Advancement of Colored People or any of the subordinate bodies etc., until they have complied with the provisions of R.S. 12:401 et seq., and R.S. 14:385, et seq.

That in the aforementioned case, a temporary and permanent injunction were prayed for; that on October 9, 1959 a temporary restraining order was issued therein and that this suit is presently pending before the United States District Court for the Eastern District of Louisiana on petition for removal filed by the defendants therein.

That your affiant filed said suit to restrain the holding of an organizational meeting of the NAACP and its affiliates in Shreveport, Louisiana, because the parties who advertised the holding of the meeting declared that they were not in compliance with the statutes involved herein, would not be in compliance therewith, and would hold said unlawful meeting in any event, unless the holding thereof were restrained.

That the petitioners herein and the branches affiliated therewith are the sole organizations in the entire State that have failed and refused to comply with the law after being advised that it was necessary to so do.

That many of the NAACP affiliates with the State have in the past complied with R.S. 12:401, et seq., but at the present all have deliberately refused to do so.

[fol. 172] That in the year 1956, it was called to affiant's attention in his capacity as Attorney General that Articles of Incorporation of the Knights of the Ku Klux Klan Incorporated were filed in the office of the Clerk of Court of the Parish of East Baton Rouge, and that said organization had not complied with the provisions of R.S. 42:401-409. That upon receipt of this information, affiant called upon the officers and members of said organization to comply with the law and that as a result of such demand the Knights of the Ku Klux Klan Incorporated did file a list of officers and members of its organization as required by R.S. 12:401, et seq. That subsequent thereto this organization was dissolved and for that reason was no longer required to file officer and membership lists for the years 1957, 1958 and 1959.

That affiant as Attorney General of the State of Louisiana and through his staff has secured compliance with R.S. 12:401, et seq., and R.S. 14:385, et seq., by the issuance of opinions to organizations such as The American Legion, Women's Alliance for Political Action, Louisiana Association for the Deaf, and such other organizations advising that it is necessary for these organizations to comply with the provisions of these laws, as is shown by the thermo-fax copies of certain representative letters written by the Attorney General's Office.

That affiant conferred with the District Attorney of the 4th Judicial District of Louisiana, Honorable Albin P. Lassiter, concerning the enforcement of Louisiana R.S. 12:401, et seq., relative to certain private clubs domiciled in that area which had not complied with that statute; and, as a result of this action, several private social clubs in Monroe and the surrounding area were requested to file membership and officer lists, as provided by said law; that if the said private clubs had not complied with the law, it was the solemn intent of both the District Attorney and affiant to file suits for compliance.

That your affiant since taking office on May 18, 1956, has had innumerable telephone calls and oral requests concern-

ing the necessity of various organizations complying with the statutes which are questioned herein, and that your affiant has steadfastly, privately and publicly through the press advised all affected organizations to comply with the provisions of these statutes.

[fol. 173] That your affiant conferred with the individual District Attorneys throughout the State concerning enforcement of these statutes and there was discussed with the District Attorneys in 1958 at the Attorney General's Conference for District Attorneys in New Orleans, Louisiana, the enforcement of said statutes. That as a result of the foregoing conferences your affiant and the District Attorneys of the State agreed to uniformly enforce the provisions of said statutes, and have so done.

That affiant in his capacity as Attorney General of the State of Louisiana, has at all times enforced compliance with the membership law, when violation thereof has come to his attention.

Jack P. F. Gremillion

Sworn to and Subscribed, Before Me,
this ..... day of ....., 1959.

.....
Notary Public

[fol. 176]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Baton Rouge Division

Civil Action No. 1678

STATE OF LOUISIANA

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

New Orleans Division

Civil Action No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

v.

WADE O. MARTIN, JR., Secretary of State,
State of Louisiana, et al.

AFFIDAVIT—Filed November 25, 1959

State of Louisiana
Parish of Orleans

Before Me, the undersigned authority personally came and appeared Arthur J. Chapital, Sr., who being by me first duly sworn deposed and said that he annexes hereto newspaper articles taken from the Shreveport Journal dated January 5, 1957, June 1, 1957, January 14, 1958, January 23, 1958 and Shreveport Times dated January 23, 1957 in further support of his affidavit of November 13, 1959.

Arthur J. Chapital, Sr.

Sworn to and subscribed before me this 24th day of November, 1959.

A. P. Tureaud, Notary Public.

[fol. 177]

world's largest liner in drydock at South-

Filed After Deadline—

Atty. General Undecided On Acceptance of NAACP Lists

BATON ROUGE (AP)—State Attorney General Jack Gremillion says he is uncertain whether to accept membership lists filed by The National Assn. for the Advancement of Colored People or continue court action against the group.

The secretary of state's office said yesterday it had received a roster of 14 officers in the 1956 state branch of the NAACP.

Branches in New Orleans, Shreveport and Lake Charles filed lists earlier to comply with a 1956 state law requiring such rolls of all but National Guard and church groups. The old law, originally aimed at the Ku Klux Klan, was found last year to outlaw the integration organization in the state.

• • •

Moore Deadline

The latest list was notarized Dec 20 and received here Wednesday, three days after the 1956 deadline. The law requires that the lists be filed between Dec. 15 and Dec. 31 of each year.

The Rev. T. J. Jemison, a member of the state executive committee and a leader in the fight to have segregation on Baton Rouge buses outlawed, said he doubted that a Baton Rouge membership list would be filed until late this year.

He said under the law he did not think any membership list would have to be filed until the 1957 deadline next December.

The new list, filed by the wife of D. A. Combre, Lake Charles, president, named 14 officers of the executive committee of the Louisiana State Conference of Branches of the NAACP.

In New Orleans, Atty. A. P. Tureaud who has been chief NAACP council in this state, said the roster represented state NCAAP officers. His name is on the list but he said he has resigned in order to have room to handle pending litigation involving the organization.

The state list named as executive committee officers Combre's wife; A. J. Chapital Sr., New Orleans, vice president; the wife of D. S. Norris, Defiddler, secretary; B. J. Stanley, Baton Rouge, treasurer. L. E. Cooley, Lake Charles, treasurer.

Named committee members were the Rev. W. G. Monroe, Shreveport; Daniel E. Byrd, New Orleans; A. P. Tureaud, New Orleans resigned; Atty. E. B. Millspaugh, Opelousas; Marietta T. Brown, Lake Charles; Jeanne G. Rumsey, New Orleans; E. A. Bryant, Shreveport; the Rev. T. J. Jemison, Baton Rouge; the Rev. H. J. Scott, Lake Providence; and J. N. Blankenship, Dallas.

Gov. Long Buys Land

Man Fined For Selling Beer Without Permit

A $100 fine or 30 days in jail was the penalty assessed by Judge James U. Galloway in Caddo district court yesterday against Anthony J. Lalena, 48, on a plea of guilty to selling beer without a permit.

Officers said Lalena sold the beer at his drive-in at 1310 North Market St. without a police jury permit.

Clyde Tucker, 49, of Texarkana, was found guilty after he had pleaded innocent to charges of drunk driving and obstructing the runways of the Shreveport airport with his automobile Dec. 9. He was fined $125 or 30 days on both counts.

Jesse James Bryant, 28, of 6808 Henry St., Negro, was sentenced to a fine of $150 or 60 days on charges of battery. He was accused of shooting Leon Walker, Negro, with a pistol Dec. 20 in front of the Moonglows grill.

Will Woodard of 2909 Milam St., Negro, was sentenced to six months in jail on a charge of driving while drunk.

Three persons were given fines of $125 or 30 days in jail on drunk driving charges. They were James M. Corbin, 33, of 219 East 70th St.; Henry Burdine, 32, of Dallas, Tex., Negro, and Sam Cross, 32, of Redwood.

Board to Receive Bids Tuesday On School Addition

Bids will be opened at 2 o'clock Tuesday afternoon for a 10-classroom addition to the Queensborough Elementary School, it was announced yesterday by Superintendent [illegible]. $60,000 has been budgeted from the recently approved $17,200,000 bond issue.

The [illegible] contract to the school board [illegible] day afternoon session.

The [illegible] plans call for a six-room wing and [illegible] classroom addition to the present building. The addition will provide for 300 more pupils at the 1,000-pupil school which has a present enrollment of 650.

V. of A. Elects

Convicted Two Charges hooting Spree

G Price, who lives in the ck of East 70th St., was d in city court yesterday on and two charges of ad- d assault by wounding a an and firing at an offi- ng a drunken pistol shoot- on Dec 7

Bernan D Hendrick an- l that he would pass sen- Monday afternoon on the of Price's attorney

was convicted for shoot- land D Wilson in the foot former two shots at Officer Ballard

shooting occurred after nd Wilson met to "cele- Price's birthday. Price re- to his 70th Street apart- nd 9:30 p m Wilson remem- ber stopped by the apart- ome to see if his compan- l arrived home safely He Price playing with a gun testified that when he Price to put the gun away ewed it in my stomach." slapped the gun from his nd Price showed a knife stomach." Price retrieved and started firing A bullet n Wilson's foot

ng the shots Officer Bal- ard to investigate and Price o shots at the officer All ets were discharged, four ne direction

Inside the court that he did not to wound Wilson but ired him to leave

nan Sues For ,894 Damages late's Death

Lillie P. Antley, 21 of ort Friday filed a $150,894 uit in federal court here out of a two-car collision in her husband received juries

Antley named as defendants Hebert, 19, owner of a car olved with the one driven husband and State Farm Automobile Insurance Co

ccident occurred last Oct. 0 intersection of Gladstone nd Line Ave Roger Lee 0 was driving the car g Hebert, who was attend- Shreveport College at the the accident, according to his

o Tried On ult Charge

Bernan D. Hendrick in ar yesterday afternoon an- ludgment the trial of Fred [illegible] of 6th Ward

MATHENEY RETIRES

George W. Mathell, a 65-year-old machinist, was formally retired by the J. S. Board Co., Inc., yesterday after 20 years of employment with the local firm.

Board officials said the retirement was the first under a retirement plan adopted by the company last September.

COUNCIL PROCEEDIN SHREVEPORT, LA., J

[illegible]

Official Proceedin Commissioners of Cod Meeting Held on De

[illegible]

Tensas, Union, Vernon, Webster, West Carroll, West Baton Rouge, West Feliciana, Winn, Ouachita, Iberville and Washington.

NAACP List Of Members To Undergo Check

BATON ROUGE (AP)—Atty. Gen. Jack Gremillion planned to check membership lists tomorrow to see if the National Assn. for the Advancement of Colored People may operate in Louisiana.

The NAACP has been banned for failing to comply with an old state law requiring the filing of membership lists.

A. P. Tureaud, Louisiana counsel for the pro-integration organization, said chapters in New Orleans, Lafayette, Lake Charles, Alexandria, Baton Rouge and Shreveport planned to file their lists before yesterday's deadline.

But Gremillion yesterday said he only had received the New Orleans list and was not sure it was legal, since it listed 345 individuals and two clubs as members.

"It's my understanding that if you list a subordinate group you must list every member of the group," he said. "However, I haven't had time to study the list yet. I'll investigate it Wednesday."

The Baton Rouge chapter's president, Dr. C. J. Gilham, said, "I'm not sure very much that we will file. We haven't had time to contact all the members on the list and I wouldn't want to file it until I had done so."

Gremillion will find out tomorrow how many NAACP lists were filed. They will be considered valid as long as they were postmarked before yesterday's midnight deadline.

The lists are required under a 1924 law that knocked out the Ku Klux Klan in Louisiana. The law requires membership lists from all groups but the National Guard and churches.

Child Tested And Heart Surgery Okay'd

NEW ORLEANS (AP)—Six-day-old Thomas C. X. Lyth of Augusta,

ENTIRE
STOCK
VICTOI
FURNIT
DRAST

Vol. 47-8

KA Gospel Hour
EA News
NT Bill Jay Show
KA Pastor's Study
KA Honeymoon Garner
EA Tall Texan's Show
NT Percy Faith
CL Morning Symphony
EA Neal Merritt Show
NT Bill Jay Show
NTFred Waring Show
KH Wendy Warren and News
KA Hallejuah Train
EA News and Weather
KH Backstage Wife
KH Helen Trent
EA Gospel Hour
KH Our Gal Sunday

• • •

ESDAY AFTERNOON

EL Tom Adams Show
KH News & Farm News
KA Noon Flight
NT Market Reports
NT Ed Hamilton
KH Pickin & Singin
MD Paul Harvey
KH Gene Ross News
EA Back to the Bible
NT Ed Hamilton
W News
A W. Milam Blues Assn.
KH Pickin & Singin
KH Broiler Markets
NT Gabriel Heatter
KH Nora Drake
A Smokey's Stampede
T Bob Elliott
KH Ma Perkins
KH Dr. Malone
KH Road of Life
A Glory Road
KH News - Wendy Warren
A News
L Afternoon Symphony
KH Mrs. Burton
A News
KH Couple Next Door
KH Just Entertainment
L Jack Sanders Show
A Honeymoon Garner
T Don Haynes Show
H House Party
A News
KH Art Baker
KH Bob Stoer-News

"You need more exercise—get up and switch channels once in a while."

Sen. Rainach Congratulates Caddo Sheriff

State Sen. W. M. Rainach has congratulated Sheriff J. Howell Flournoy on his "prompt and decisive" action in dismissing a Negro special deputy who opposed a Negro minister who was trying to form an anti-NAACP group here.

"Such action," Rainach said in a letter to the Sheriff," should serve vigorous notice that your office does not condone the destructive policies of the NAACP and will not lend aid and comfort to those who support such policies."

Flournoy lifted the commission of Alexander Lee, Cooper Road Negro, who had served as a special deputy under the sheriff after Lee arose at a meeting called by the Rev. C. L. Smith, Memphis Negro minister, and objected to the formation of a chapter of the Mutual Assn. of Colored People, South.

The MACPS opposes the integration policies advocated by the NAACP. After Lee made his objection the meeting, being held in a local church, disbanded.

Flournoy told Lee that he believed the NAACP was detrimental to both the Negro and white races and that since their views were so divergent he was cancelling Lee's commission. Lee had served as a special deputy but was not on the sheriff's payroll.

State Sues To Have Highway

8, pleaded guilty to the during sessions of the month. Pre-sentencing tions were ordered by Judge Bolin.

Investigating officers men took an auto Nov. L. V. Alexander, of 200½ Apts. They drove the car toches, Winnfield and before returning to Bos and abandoning the vehicl lowing day.

The pair took the sec from in front of a night 8. They abandoned the the same night when it mired in the mud in the the 800 block of Delhi St. hicle is the property of an employe of the Cardinal Co. here.

Bossier City police arre two on the complaint of at their sister's home in City. The woman said the used her car without her No charges stemmed complaint.

According to police rep older brother was releas the state penitentiary la after serving a three-year burglary and parole viola younger Kirtley served a the Colorado Federal Cor Institute in 1963 after conv a Dyer Act violation.

Film Pione Jesse Lask Dies at 77

Hollywood in 1958
Page 3
tack has ended the career L. Lasky, movie pioneer w build Hollywood a vast fi tr
vision years, collapsed and died erly Hills yesterday after talking about his book, "I Own Horn," before a

Mrs. Scott climb a ladder to repair a roof or fix a radio antenna. She has been doing such jobs since the death of her husband nine years ago.—AP Wirephoto)

27 Listed in 1957—

Membership of Local NAACP Group Changes

The Shreveport Chapter of the National Assn for the Advancement of Colored People underwent a virtually complete change in membership during 1957, while losing one-third of its strength.

Only the president, E. A. Bryant, 2832 Milam St., remained of the 46 listed as members in 1956. Recruitment of new members erased only about two-thirds of the loss.

These facts were revealed today when Secretary of State Wade O. Martin Jr. released the names of the members of the Shreveport Chapter of the NAACP for 1957. It showed a total of 27 members affiliated with the NAACP here in 1957.

A comparison of the two lists showed that the only name which appeared on both lists was that of Bryant, who was listed as president for both years.

The 1957 lists showed A. C. James, 1951 Poland St., as secretary. He was not listed as a member in 1956. However, his wife was shown as a member in 1956 but not in 1957.

• • •

No Professional Men

The 1956 list showed two professional men as members, but the 1957 list showed no professional men.

The 1957 list in addition to Bryant and James, follows:

Clarice Bryant, 2832 Milam St.; P. A. Allstock, 1544 Gary St.; E. W. Leach, 1531 Gary St., Wesley Stewart, 2010 Ashton St.; Carl D. Bryant, 712 W. 63rd St.; H. W. Walker, 423 W. 65th St.; Mattie Tilliver, 2851 Looney St.; Corine Riley, 638 E. 70th St.; Sylvester Malone, 513 E. 78th St.; R. L. Williams, 1459 Murphy St.

Ellis Taylor, 1813 Weinstock St.; Lena Taylor, 1813 Weinstock St.; Albert Foster, 1128 Andrew Ave.; Elbert Moss, 1238 Taylor St.; Steven Trammell, 1081 Chester St.; Will Marions, 1042 Ashton St.; Irene Bryant, 712 W. 63rd St.; Mabelle Grant, 712 W. 63rd St.;

See NAACP, Page 8-A

Gunman Hits Orange Bank

Negro Escapes With $1,400; Two-State Manhunt Started

ORANGE (AP)—A Negro gunman held up the First National Bank today and escaped with $1,400 in cash. The robbery set off a two-state manhunt.

Roadblocks were set up throughout southeast Texas and southwest Louisiana. The FBI entered the case.

Authorities picked up several persons for questioning but none could be identified at once as the robber.

Shortly after the robbery, officers surrounded a home in the Orange Negro community, then crashed into the structure but it was empty.

Officers assaulted the house when they found a car bearing a license number believed that of the get away car parked at the residence.

They later theorized that the robber might have been picked up by a second car.

Deputy Sheriff [illegible] arrested a Negro man [illegible] but there was no immediate identification of the man as the robber.

Orange [illegible] asked [illegible] southwest Louisiana officers watch for an escape attempt into that state.

Authorities [illegible] that a blue [illegible] two-tone [illegible] was travelling north from Orange at a high rate of speed carrying Negro men.

Show of Hands

Reuther then had a show of hands on the question of a roll call. He announced that only 75 delegates were demanding a roll call and that the union leadership's new bargaining program had been approved.

The ratification of the profit-sharing plan followed a lively debate, sometimes marked with boos that brought rebukes from Reuther.

The opposition was led by Carl Stellato, president of the 4,500-member Local 600 at the Ford Rouge plant.

Earlier Stellato had urged that the proposal be submitted to a referendum vote of the rank and file.

• • •

Loud Cheers

His statement brought loud cheers from a vociferous minority on the convention floor.

Stellato argued that the union would be united in fighting for shorter work week. He added, "We may have some rough going in view of what is going on in the country at this particular time."

The UAW president appeared confident that he had enough strength among the 3,000 delegates to win approval of the plan. It would give auto workers a one-quarter slice of a company's profits over 10 per cent on net capital before taxes.

In an hour-long opening address on the plan, the redhaired labor chief bristled at a delegate's suggestion that it "appears we are serving as a rubber stamp."

The criticism came from Leo H. Michener of Long Beach, Calif. He said in the 1958 bargaining program should have been worked out before the convention meeting, publicized before the convention gates convened.

Reuther retorted, "We only know you our thinking. The committee rejected our thinking. We could have been criticized justly if we had not given you time to think it over."

Reuther announced that General Motors President Harlow H. Curtice had rejected the union's invitation to address the convention on what he believed should be its bargaining goals this year.

The delegates listened politely to Reuther's administrative assistant, Jack Conway, read Curtice's letter. Curtis urged the

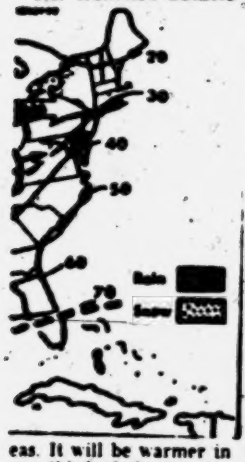
1958 ... PROFIT. Page

Today's Journal

Amusements .....
Classified Ads .....
Comics .....
Crossword Puzzle .....

Colder Weather Will

U.S. WEATHER BUREAU



eas. It will be warmer in ern third of the country Dakotas, Rockies and the u area. (AP Wirephoto

JUST IN CASE

UDBURY, Mass. (AP) — Police f John McGovern ordered mbers of his department to take urse in obstetrics. He said that or as he knew, a Sudbury po- man has never had to assist in ering a baby, but that his men ld know how "just in case."

1924 LAW

More NAACP Lists Are Filed in Louisiana

BATON ROUGE, Jan. 2 (AP)—National Association for the Advancement of Colored People branches in Shreveport and Lake Charles today filed membership lists with the secretary of state.

Three branches of the anti-segregation organization now have complied with the 1924 law used last spring to outlaw the NAACP. A list from the New Orleans branch was received Monday.

The law, requiring membership lists from all but National Guard and church groups filed yearly with the secretary of state, was first used to wipe out the Ku Klux Klan.

It was largely ignored after that until last year when the NAACP was put out of business by a state court order under its provisions. The injunction was appealed and now is pending in federal district court.

Since the action against the NAACP, there has been a flood of membership lists filed with the secretary of state.

The last-minute rush of lists mailed before the deadline Monday midnight was such that the secretary of state's office didn't uncover the two new NAACP lists until after noon.

Meanwhile, Atty. Gen. Jack Gremillion, directing the action against the NAACP, said he had made no decision whether or not to accept the list or continue the court action.

The Shreveport list contained 45 names, one from Minden and the remainder from Shreveport.

The Lake Charles list contained 75 names, mainly from the Lake Charles area but a few from other Louisiana cities such as New Iberia.

675 NAMES

A total of about 675 names so far were listed as Louisiana members. Still missing are membership lists from branches in Baton Rouge, Alexandria and Lafayette.

None of the three lists contained a separate listing of branch officers as required by the old law.

Secretary of State Wade Martin said on the lists received before Monday, his office had acknowledged receipt, filed the list and pointed out any defects in the filing, such as not properly notorized, or a list of officers not attached.

But he said on all lists received today, his staff simply filed the list and was acknowledging it had been received.

"If we pointed out a mistake," he said, "it might be taken as an admission it was properly filed. I have no authority and don't plan to take a stand on whether any list received after 5 p.m. Monday was filed in time."

NAACP officials contended a list would be valid if postmarked before midnight Monday night. The New Orleans list was mailed Sunday, the others Monday.

The law simply requires the list be filed between Dec. 16 and Dec. 31, with no mention of a time deadline.

Rudder Sworn in As Commissioner

AUSTIN, Jan. 2 (AP)—Land Commissioner Earl Rudder, receiving his oath from Judge Ruel Walker, associate justice of the Texas Supreme Court Wednesday began his first elective term in office.

Rudder was appointed land commissioner in January 1955, by Gov. Allan Shivers. That was after former land commissioner Bascom Giles declined to accept the office to which he had been elected for the ninth consecutive time.

Giles is now at Huntsville penitentiary following his conviction in connection with the veterans land fraud scandals.

BLADDER WEAKNESS' MAKES MANY FEEL OLD

There is nothing that can make you feel older, and more depressed than losing sleep and worrying about "Bladder Weakness", Getting Up Nights or Bed Wetting, Burning and Itching, Frequent, Scanty, Cloudy Urine, due to common Kidney and Bladder Irritations, which sometimes result in Backache, miserable Nervousness, Leg Pains, Swollen Ankles, Circles under eyes, Headaches, Dizziness, Lack of Energy, Pep, Vigor, Vitality, grow quick, Distressful, soothing, healing, combating germs in mild urine, and relieving pains in mild urine, [illegible] Don't suffer [illegible] Ask your druggist for [illegible] Ad.

De Soto Asse Assumes Off

MANSFIELD, Jan. 2 W. R. Mannes today as assessor for De in a brief ceremony h home.

Mannes, elected la succeeds Mrs. Billy Riggs. He took the oath fr Court Weaver Finch wife and two sons.

Mannes was elect last Feb. 21, but bec law applying to tax not assume his post u

CO

New laxative

Without d

Constipation is comm torn call a "thrifty" co of retaining moistur does the opposite: r so much moisture t becomes dehydrated, block the bowel; a they fail to excite urge to purge that p waste from your bo

To regain normal re shrunken, constipa your colon which bowel must be rem built must be brou to D-T-R-U-T-C-H action; to a norma

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★ NAACP

From Page One

Saline Chambers, 1439 Pershing St.; F. L. Fuller, 324 Douglas St.

Sallie Heard, 2... Ashton St.; Walter Bryant, 1... Morning... J. B. Milson, 1... Milam St.; Madeline Brewer, 27... Ashton St.; and David E. Thompson, 27... Ashton St.

State officers and members of the state executive committee for Louisiana, were very nearly the same in 1957 as in 1956. The 1957 list follows:

The wife of D. A. Combre, Lake Charles, president; A. J. Chapital Sr., New Orleans, vice-president; the wife of D. S. Norris, DeRidder, secretary; L. H. Conley, Lake Charles, treasurer; R. B. Millspaugh, Opelousas; Marietta T. Brown, Lake Charles; E. A. Bryant, Shreveport; Rev. T. J. Jemison, Baton Rouge; Rev. H. J. Scott, Lake Providence and J. S. Blankenship, Saline, members of the executive committee.

The membership list of the NAACP and many other organizations must be filed with the secretary of state yearly under Louisiana law.

There were no official state-

...available to explain the drop in total membership of the NAACP here and the complete turnover of its membership itself. However, the NAACP has been under strong attack in the South and in some quarters in the North during the last several years. The attacks were increased greatly after the attempt by the NAACP to force mixing of white and Negro children at Central High School at Little Rock, Ark.

Assessors to Close Convention Today

BATON ROUGE (AP) — The Louisiana Assessors Assn. closed its annual convention today with a series of resolutions up for consideration.

Tax commission chairman James T. McCleskey told the group yesterday the goal of good property tax handling is periodic, comprehensive assessments at current value.

The [illegible] boards of the Louisiana Police Jury Assn., the Louisiana School Board Assn. and Gov. Earl Long this week suggested parish assessments should be revamped at a more realistic figure.

Journal
JAN 24, 1958
PAGE 2

7

From Page

walls or [illegible] minors mo...

Police Sgt. ... six major ... young-ter...

Among th... were Burl... ages ... pers ... P... girls ... Lee parts. ... Rock 'n R...

Asst. Dr... Lutz Jr., ... ber were ... and also ex...

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Says Way

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George ... officers tha... District Att... before the ... ness.

Hayes q... "I'm not t...

[fol. 180] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

AFFIDAVIT—Filed November 27, 1959

State of Louisiana
Parish of Orleans

Before me, the undersigned authority personally came and appeared, Jack P. F. Gremillion, duly elected, qualified and acting Attorney General of the State of Louisiana; who after, by me, being duly sworn, did depose and say:

That, in the past few weeks, he has made a diligent and comprehensive survey of public officials, including District Attorneys, Judges, Mayors, etc., private individuals, including bankers, attorneys and other persons well known in their respective communities, to see whether they, of their own personal knowledge, have any information whatsoever which would tend to show that persons who were members of the N.A.A.C.P. were discriminated against, economically or otherwise because of membership in said organization.

That, this exhaustive survey, made personally by the affiant has failed to disclose any information whatsoever which would show any discrimination against any person, Negro or white, because of their membership in the aforesaid organization.

Jack P. F. Gremillion

Sworn to and subscribed before me, this 25th day of November, 1959.

William P. Schuler, Notary Public.

[fol. 181]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

AFFIDAVIT

State of Louisiana
Parish of Calcasieu

Before Me, the undersigned party personally came and appeared Edward L. Shaheen, District Attorney for the 14th Judicial District of Louisiana, composed of the parishes of Calcasieu and Cameron, who, being duly sworn did depose and say:

That no person has ever made a complaint to him as District Attorney to the effect that they were discriminated against economically or otherwise because of membership in the "N.A.A.C.P."

Further that he knows of his own personal knowledge that no individual has ever been discriminated against economically or otherwise because of membership in the "N.A.A.C.P."

Edward L. Shaheen, District Attorney, Parishes of Calcasieu and Cameron.

Sworn to and Subscribed before me at Lake Charles, Louisiana, on this 24th day of November, 1959.

Frank T. Salter, Notary Public.

[fol. 182]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

AFFIDAVIT

State of Louisiana
Parish of Claiborne:

Before Me, the undersigned authority, personally came and appeared Fred L. Jackson, who, on his oath, did depose and say: That he is the District Attorney of Second

Judicial District and has been for Seventeen (17) years, and that Bienville Parish is in the Second Judicial District and that your affiant has been in close touch with the negro population of said parish and is familiar with the employment of said colored people in the parish and knows that there has been no discrimination against any colored people because of their membership in the NAACP, and that your affiant believes that he would have heard of any case that discrimination would have been shown, as said parties would probably have complained to your appearer, but that he has had no complaint whatsoever by any person that they were discriminated against by employer or otherwise, because they were members of the NAACP.

Fred L. Jackson

Sworn to and Subscribed before me on this the 23rd day of November, 1959.

Ola Allen, Notary Public in and for Claiborne Parish, Louisiana.

[fol. 183]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

AFFIDAVIT

State of Louisiana
Parish of Bienville:

Before Me, the undersigned authority, personally came and appeared R. L. Taylor, who, on his oath, did depose and say:

That he is President of the Arcadia Cotton Oil Mill in the Town of Arcadia, Louisiana, and which mill has been operating in said Town for many many years and that said Cotton Oil Mill probably employs more colored people than any other business in the Town of Arcadia, and your affiant states that there has been no discrimination whatsoever made against any member of the colored race because of their membership in the NAACP in the employ-

ment at said mill and that because any negro was a member of the NAACP has not effected (sic) their status has (sic) an employee of the mill in any way.

R. L. Taylor

Sworn to and Subscribed before me on this the 23rd day of November, 1959.

R. L. Taylor, Jr., Notary Public in and for Bienville Parish, Louisiana.

[fol. 184]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

AFFIDAVIT

State of Louisiana
Parish of Bienville:

Before Me, the undersigned authority, personally came and appeared Bentley Gantt, who, on his oath, did depose and say:

That he is the President of the First National Bank in Arcadia, Louisiana, and which is the only bank situated in said Town now and has been the only bank in Arcadia for the past Fifteen (15) years, or more, and that one John W. Overalls, a colored male, was employed by said bank as janitor for a short period before World War II, and that the said John W. Overalls returned to Arcadia after the war and was employed by the bank as a janitor until November, 1955, when he was discharged.

That the Officers of the First National Bank in Arcadia, did not know that the said John W. Overalls was a member of the NAACP, and your appearer even now does not know that he was and that the reason that the said John W. Overalls was discharged from his employment at the bank was on account of the performance of his duties as janitor in that his work was performed so poorly and in such a manner that it was impossible to retain him as a janitor, and in fact, the said John W. Overalls made the statement that he did not like this kind of work and was not satisfied

to be a janitor and that this was his sole duty as employe of the bank and that the sole and only reason for the discharge of John W. Overalls from the bank was the poor performance of his work and that none of the personnel of the bank knew that he was a member of the NAACP, and if [fol. 185] he was a member of this organization that this had nothing to do whatsoever with is (sic) discharge from said bank.

Bentley Gantt

Sworn to and Subscribed before me on this the 23rd day of November, 1959.

J. F. Bridges, Notary Public in and for Bienville Parish, Louisiana.

[fol. 186]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action Number 8564

N.A.A.C.P.

vs.

WADE O. MARTIN, ET AL.

AFFIDAVIT

State of Louisiana
Parish of Caddo

Before Me, the undersigned authority, a Notary Public in and for the above Parish, duly commissioned and sworn, came Edwin L. Blewer, District Attorney of the First Judicial District, who, upon being by me first duly sworn, did depose and say:

I. That he has been duly elected and serving as District Attorney in the First Judicial District of Louisiana, (Caddo Parish, Louisiana) continuously since December 3, 1942.

II. That during his term of office, as aforesaid, no person of the Negro Race has ever complained to him of any economic or any other type of reprisals against them because of their membership in the National Association for Advancement of Colored People.

III. That of his own knowledge, he does not know of any reprisals, economic or otherwise, or discrimination in the First Judicial District of Louisiana, (Caddo Parish, Louisiana) against any member of the National Association for Advancement of Colored People, because of their membership therein, whether white or negro.

Edwin L. Blewer

Subscribed and Sworn to before me, Notary Public, on this the 24th day of November, 1959.

John A. Richardson, Notary Public.

[fol. 187]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

AFFIDAVIT

State of Louisiana
Parish of Red River

Before me, Margie Worsham, Dep. Clerk & Ex-officio, a Notary Public duly commissioned and sworn, in and for the Parish and State, aforesaid, personally came and appeared Lynn Bailey, a resident of the Parish of Red River, State of Louisiana, who being by me first sworn, deposes and says:

That he was born in Red River Parish, Louisiana, 69 years, ago and has continually resided therein since his birth.

That he has been employed by Mr. Albert Stephens, realty owner, resident of Red River Parish, as his agent to collect rents and to report need for repair and upkeep of his property.

That he collected rent from Frank Davis, negro male, resident of Red River Parish, Louisiana for use of a residence and cafe building, the monthly rental being $35.00, said buildings being located on St. Louis Street, Coushatta, Louisiana.

That affiant specifically denies that he did at any time directly or indirectly, inform the said Frank Davis, Lessee, that he would have to close the cafe operated by him at not later than eight o'clock, P. M. every day, because he the said Frank Davis was a member of the National Association for the advancement of Colored people. He further specifically denies that he ever informed the said Frank Davis he would have to close his place of business at any specified time or for any specified reason. That the statement if made by Frank Davis, is wholly false and untrue.

Lynn Bailey

Sworn and subscribed to before me, Margie Worsham, Dep. Clerk & Ex-officio Notary Public, on this the 23rd day of November, 1959, at Coushatta, Louisiana, in the presence of the two undersigned competent witnesses.

Margie Worsham, Dep. Clerk & Ex-officio, Notary Public.

Witnesses: H. L. Hughes, J. Walton Crawford.

[fol. 188]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

AFFIDAVIT

State of Louisiana,
Parish of Red River.

Before Me, the undersigned authority, duly commissioned and sworn, in and for the Parish of Red River, State of Louisiana, personally came and appeared the following named citizens, all residents of the Parish of Red River,

State of Louisiana, and to me well Known, who being by me first duly sworn, depose and say:

1. That my name is J. Walton Crawford. That I have lived in Red River Parish for the past five years, or more. That I hold the official title of Registrar of Voters Red River Parish La. That to my personal knowledge I do not know of a single colored person who has been discriminated against or against whom reprisals have been taken because he or she was a member of the colored race or because of his or her membership in the National Association for the Advancement of Colored People.

2. That my name is James W. Nix. That I have lived in Red River Parish for the past five years, or more. That I hold the official title of Driver's License Examiner Red River Parish La. That to my personaly (sic) knowledge I do not know of a single colored person who has been discriminated against or against whom reprisals have been taken because he or she was a member of the colored Race or because of his or her membership in the National Association for the Advancement of Colored People.

3. That my name is Joseph F. Carr. That I have lived in Red River Parish for the Past Five years, mor (sic) more. That I hold the official Title of Secty-Treasurer Red River Parish La. That to my personaly (sic) knowledge I do not know of a single colored person who has been discriminated against or against whom reprisals have been taken because he or she was a member of the colored race or because of his or her membership in the National Assoociation (sic) for the Advancement of Colored People.

[fol. 189] 4. That my name is W. H. Tyler. That I have lived in Red River Parish for the past five years, or more. That I hold the official title of Office Deputy Sheriff's Office. That to my personal knowledge I do not know of a single colored person who has been dis-

criminated against or against whom reprisals have been taken because he or she was a member of the colored race or because of his or her membership in the National Association for the Advancement of Colored People.

5. That my name is Lester Hughes. That I have been District Attorney of the 10th Judicial District of Louisiana, which includes Natchitoches and Red River Parishes. That to my personal knowledge I do not know (sic) know nor has complaint ever been made to me either personally or in my official capacity as District Attorney, since I took office in 1936, by any colored person that they have ever been discriminated against or that reprisal has ever been taken against them because they were members of the colored race or because they may have been members of the National Association for the Advancement of Colored People.

1. J. Walton Crawford
2. James W. Nix
3. Joseph F. Carr
4. W. H. Tyler
5. H. L. Hughes

Sworn and subscribed to by each of the above affiants, at Coushatta, Louisiana, in the presence of the two undersigned competent witnesses, and me Margie Worsham Dep. Clerk & Ex-officio Notary Public, on this the 23rd day of November 1959.

Margie Worsham, Dep. Clerk & Ex-officio, Notary Public.

Witnesses: Glen Weaver, Doris Brown.

[fol. 189a]

COUNSEL'S NOTE RE NAME OF CHAPTER, DATE RECEIVED AND NUMBER OF NAMES

Chapter	Date Rec.	No. of Names
Dillard University	12 26 57	33
Executive Committee of La. State Conferences	12 31 57	10
Jefferson Parish	12 27 57	15
DeSoto Parish	12 30 57	30
Jonesboro	12 27 57	5
Lafayette	12 27 37	13
Lake Charles	1 2 57	75
	12 31 57	522
LaPlace	12 27 57	22
Lutcher	12 30 57	20
New Orleans	12 31 56	357
New Orleans	12 30 57	1100
Red River	12 27 57	24
	1/14 58	52
Shreveport	1/ 3/58	27

[fol. 190] [File endorsement omitted]

[fol. 191]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Civil Action No. 1678

STATE OF LOUISIANA

—VS—

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

Civil Action No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

—VS—

WADE O. MARTIN, JR., SECRETARY OF STATE, STATE OF LOUISIANA, ET AL.

[fol. 192]

Transcript of Proceedings—November 19, 1959

The depositions of Frank Davis, L. A. Durham, J. N. Blankenship and R. L. Williams, taken upon oral examination on behalf of the State of Louisiana in the above entitled and numbered causes before V. E. Creiglow, Court Reporter, Deputy Clerk of the First Judicial District Court in and for Caddo Parish, State of Louisiana, and Ex-Officio Notary Public, at the Caddo Parish Courthouse, Shreveport, Louisiana, beginning at three o'clock P. M. on Thursday, November 19, A. D. 1959, pursuant to the following agreement and stipulation of counsel:

It is agreed and stipulated by and between counsel for both plaintiff and defendant herein that all the formalities usually observed in taking these depositions shall be waived, except the one that the witnesses shall be under oath.

It is further agreed and stipulated that objections may be made when the witnesses are interrogated, or when the depositions are offered in evidence.

It is further agreed and stipulated that there will be no necessity of the affiants herein signing the depositions, but the same shall be complete upon their testifying thereto.

[fol. 193] It is further agreed and stipulated by and between counsel that the National Association for the Advancement of Colored People will be referred to hereinafter as NAACP.

APPEARANCES:

Michael E. Culligan and William P. Schuler, 104 Supreme Court Building, New Orleans, Louisiana, Ferdinand A. Cashio, 1313 Centenary Boulevard, Shreveport, Louisiana, Attorneys for the State of Louisiana.

A. P. Tureaud, 1821 Orleans Avenue, New Orleans, Louisiana, Jesse N. Stone, Jr., 845½ Texas Avenue, Shreveport, Louisiana, Attorneys for the National Association for the Advancement of Colored People.

Reported by: Autrey Reporting Service, V. E. Creiglow, Reporter.

[fol. 194] FRANK DAVIS witness called by counsel on behalf of the State of Louisiana, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Schuler:

Q. Would you state your name, please?

Witness:

A. Frank Davis.

Q. Where do you live?

A. Coushatta.

Q. Any particular address?

A. Route 3, Box 16.

Q. How old are you?
A. Forty-seven.
Q. How long have you been a resident of Coushatta?
A. Forty-seven years.
Q. Where are your parents from?
A. Red River Parish.
Q. Are you presently a member of the NAACP?
[fol. 195] A. No.
Q. Have you been a member in the past?
A. Yes, I have.
Q. What years?
A. I believe it was 1949, I believe it was. 1949 I think it was.
Q. Any other years besides 1949?
A. 1949, 1950 and 1951. That's as far as I can guess.
Q. 1949, 1950 and 1951?
A. Yes.
Q. Now, you were not a member in 1955, 1956, 1957 or 1958, is that correct?
A. I don't know for sure as far as 1955. No, I wasn't in 1955.
Q. In other words, you have not been a member since 1951, is that correct?
A. No, I couldn't say that that was correct. I went a little bit but, I don't know, I didn't attend regular.
Q. I'm talking about being a member, not whether you attended the meetings regularly.
A. As far as I can remember, it was about 1951.
Q. That was the last year you were a member?
A. That's right.
[fol. 196] Q. What business are you presently in?
A. Well, store.
Q. How long have you been in that business?
A. A year and about five months.
Q. What business were you in prior to that?
A. Before then?
Q. Yes?
A. Cafe.
Q. And how long were you in that business?
A. Three years.
Q. What was the name of the cafe?

A. Davis' Cafe.

Q. Was that also in Coushatta?

A. Coushatta.

Q. Any particular address?

A. None.

Q. And what business were you in before that?

A. I wasn't in business; I was working at the shell plant before then.

Q. Now, you allege in your affidavit that in the year 1959 there were certain actions taken against you with reference to having your cafe open, is that correct?

A. 1959? Yes, sir.

[fol. 197] Q. 1958?

A. 1958 then; that's right.

Q. Now, when you say cafe business do you mean barroom or restaurant, or what?

A. Restaurant.

Q. There was no liquor served?

A. No liquor at all.

Q. Now would you set forth exactly what was the action of individuals and who were the individuals who acted against you that makes you feel that you were discriminated against?

A. Well, the man whom I paid rent to, he was the only one that I—

Q. Who was that man?

A. Mr. Lynn Bailey.

Q. Mr. who?

A. Mr. Lynn Bailey.

Q. And what did Mr. Bailey do or say to you?

A. Well, he drove up to my home one Sunday morning and he asked my wife where was I at and she said "in there", so I come on out and he asked to speak with me. So I went on out and I talked with him. He said "sit down". I sat down and talked with him. First he said "I [fol. 198] want to ask you"; he said "You seem to be joined the NAACP?" I said "Yes, I have."

He said "Well, you are going to have to move." I said "Yes, sir."

Q. Speak a little louder, please?

A. I said "yes, sir". He said, "Well, you are going to have to move, or either you are going to have to have to close earlier." I said "Yes, sir." I said, "I'll just move." He said, "You are not going to take your name off the NAACP?" I said "No, sir, I'm not." He said, "Well, you are going to have to move then." So that was all then.

Q. Didn't you tell me a little earlier that you have not been a member of the NAACP since 1951?

A. Well, that was a re-assignment. We just reassigned at that time.

Q. Well, in other words, you have been a member since 1951?

A. Well, I sent my name in. We sent our name—

Q. What I am trying to get, were you or were you not a member of the NAACP from 1951 through the present time and if so, at what dates were you a member?

[fol. 199] A. Well, I tell you, cut it off just a minute and I can tell you exactly how it was.

Q. Have you been a member of the NAACP since 1951?

A. I was. I was.

Q. In what years?

A. It was in 1958 and 1959.

Q. Do you remember when you joined in 1958?

A. I don't, offhanded.

Q. But you are definitely sure that you did not join until the year 1958, since 1951, is that correct?

A. That is correct.

Q. Now you say that your landlord or rent collector came to see you, is that correct?

A. Correct.

Q. Did someone else come with him?

A. No, sir, he didn't.

Q. Didn't you allege in your affidavit that the Mayor of Coushatta was also present at that time?

A. Didn't.

Q. You did not?

A. No, sir.

Q. Now you say that your landlord asked you to close your business at eight o'clock at night, is that correct?

[fol. 200] A. That's right.

Q. How late had you stayed open prior thereto?

A. Eight o'clock?

Q. Yes?

A. We stayed there about a month and—

Q. No, how long had you stayed open before that time?

A. Oh. Before that time? Oh, you mean at night? From eleven to twelve.

Q. All right. What was your rent you were paying there?

A. Twenty-five dollars a month.

Q. How much rent were you paying when you finally left there?

A. Twenty-five.

Q. It was never raised?

A. Never raised, no, sir.

Q. Do you own your own home?

A. No, sir, I don't.

Q. Are you a registered voter in your parish?

A. No, sir, I'm not.

Q. Do you pay state income tax?

A. I don't.

[fol. 201] Q. Do you pay Federal income tax?

A. Yes, sir.

Q. Now, have you or any of the immediate members of your family ever been on welfare?

A. My father have.

Q. Is he still on welfare?

A. No, sir, he's drawing pension now.

Q. No, but I mean was he ever taken off welfare before he was drawing pension?

A. Not as I know anything about.

Q. In other words, at this time that you are talking about in 1958, your father was on welfare, is that correct?

A. No, sir, he was drawing pension at that time.

Q. A pension from the State of Louisiana?

A. That's right.

Q. Old age pension?

A. That's right.

Q. And he is still drawing that old age pension?

A. Yes, he is still drawing it. He's still drawing it.

Q. Was he ever cut down at all?

A. Not as I can remember.

Q. Now were there any members of your family that [fol.] have ever gone to any state institutions or hospitals?

A. Yes, sir, my father, he's been in the hospital.

Q. Which hospital, do you know?

A. He's been in Federate Memorial Hospital.

Q. Federal Memorial?

Mr. Culligan: Confederate Memorial Hospital.

Mr. Schuler: Oh, Confederate. Is that the State Hospital?

Witness: Shreveport Charity.

Q. Has that been since—

A. Since then, yes.

Q. Since 1958, you are talking about?

A. Yes, since then.

Q. He was not denied admission thereto?

A. No, sir, he wasn't.

Q. Now, are you presently a member of the NAACP?

A. No, sir, I'm not.

Q. Are any of your blood relatives members?

A. Yes, sir.

Q. Who are they?

A. My father is.

Q. Oh, your father is a member?

[fol. 203] A. Yes, sir.

Q. Is that the same man who has been getting the welfare check and the same man who has been going to the state hospital; is that correct?

A. That's correct.

Q. Now, while you were a member of the NAACP did you help solicit for membership?

A. (No answer)

Q. Did you go out and ask people to join?

A. I didn't.

Q. Now, you are familiar with this affidavit that you filed, are you not?

A. Yes, sir.

Q. Did you draw it up yourself or did someone else draw it up for you?

A. You mean write it?

Q. Yes.

A. I said it and they write it.

Q. You said it and they write it?

A. Yes, sir.

Q. And you say that all the facts contained therein are true and correct?

A. Yes, sir. All but one.

Q. Which one is that?

[fol. 204] A. That's down there where it said the Mayor and rent collector came to my house, I mean my cafe, at the same time. They didn't do it, I mean—

Q. In other words, the Mayor never came and spoke to you at all?

A. Yes, sir, he did.

Q. About this?

A. But he wasn't with the rent collector.

Q. Now, did you ever report this action of the rent collector to any state or parish official?

A. No, sir, I didn't.

Q. You never complained to the District Attorney?

A. No, sir, I didn't.

Q. Or to no other state or parish official?

A. No, sir, I didn't.

Q. Did you make any complaint to the Federal District Attorney or to any other Federal officer about this supposed persecution?

A. No, sir, I didn't.

Q. In other words, you complained to no one at all?

A. No one at all, no, sir.

Q. Now, who drew up this affidavit for you?

A. Stone did.

Q. When did this take place, on the date it was signed?

[fol. 205] A. Yes, sir, that's right.

Q. And you say that you dictated each and every item herein to Mr. Stone before he drew it up?

A. Well, I dictated it to him as he drew it up.

Q. What is your education?

A. Seventh grade.

Q. Now, the cafe business you are talking about, when did you leave that business?

A. I left it in the latter part of 1949—I mean 1948.
Q. 1948 or 1958?
A. I mean 1958.
Q. Now, while you were operating that cafe, did you file any Federal income taxes?
A. My wife did all that. She runs it.
Q. But they were filed for you and your wife?
A. Yes, sir.
Q. Did you sell beer or anything at that cafe?
A. Not any.
Q. Now, do you remember approximately your income for the years 1957 and 1958?
A. Not too well.
Q. Well, was it about even, up or down?
A. Well, I know I was better in the first of 1958 than [fol. 206] it was in the last of 1958. I know it was better.
Q. Better, but you don't remember how much better?
A. Well, I know it was cut real hard.
Q. Can you estimate?
A. Well, I would say it was cut about fifty per cent.
Q. Now, would your income tax returns reflect that?
A. Well, I don't know.
Q. You saw the income tax returns that you made, didn't you?
A. Well, sometimes I did.
Q. Didn't you sign them?
A. I never because it wasn't even concerning me too much.
Q. Speak louder, please.
A. It wasn't even concerning me too much only I was just there with her, helping her at times.
Q. That was your wife?
A. That's my wife, that's right.
Q. And you did not bother to sign the income tax returns, is that correct?
A. Sure, that's correct.
Q. Who helped you run your business?
A. Just me and my wife.
[fol. 207] Q. Did your father work there at all?
A. No, sir, he didn't.
Q. Did he come on the premises sometimes?

A. Yes, sir, he did.
Q. Quite often?
A. Well, before this NAACP came up, he did, but afterwards he didn't.
Q. Why didn't he?
A. Well, because they asked him not to.
Q. Who asked him not to?
A. The renter that was renting—I mean what we paid rent to.

Mr. Schuler: No further questions.
Mr. Tureaud: No questions.

(Witness excused.)

(Signature waived.)

[fol. 208] L. A. DURHAM witness called by counsel on behalf of the State of Louisiana, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Schuler:

Q. Would you state your name, please?

Witness:
A. Lee Andrew Durham.
Q. How old are you?
A. I am sixty-seven.
Q. Where do you live now?
A. I live in Coushatta, Red River Parish.
Q. How long have you lived there?
A. Ever since birth.
Q. Is your family from there, too?
A. That's right.
Q. Are you married?
A. I am.
Q. Do you have any children?
[fol. 209] A. I have six children living.

Mr. Tureaud: Speak a little louder, Reverend.

Witness: Six children living.
Mr. Schuler: How are you employed?
Witness: I am a minister.

Q. How long have you been a minister?
A. Since 1921.
Q. Do you own your own home?
A. I does.
Q. Do you have a homestead exemption on that home?
A. I does.
Q. Has that exemption ever been taken away from you?
A. Never has.
Q. Do you pay state income tax?
A. I don't.
Q. Do you pay Federal income tax?
A. I don't.
Q. Now, have either you or any immediate members of your family been in any charitable institution?
A. Haven't.
[fol. 210] Q. No hospitals?
A. No, I haven't never been in the hospital.
Q. Do you or your wife draw old age pensions?
A. We draw old age pension, I and her both.
Q. How long have you been drawing it?
A. Ever since I was sixty-five.
Q. Has there ever been any threat to withdraw that old age pension from you?
A. Not as I know of.
Q. How long have you been a member of the NAACP?
A. Ever since it organized about ten years ago.
Q. Are you presently a member?
A. I am.
Q. How much are the dues?
A. Well, we just pays two dollars for joining fees.
Q. And there's no yearly dues at all?
A. No yearly dues.
Q. Two dollars?
A. Just two dollars is what we pay.
Q. Are any members of your family members?
A. My wife.
Q. Do you help solicit memberships for the organization?
A. I does.

[fol. 211] Q. What is your educational background?

A. About the fourth grade.

Q. Now, have you yourself personally ever been intimidated or harassed because of your membership in the NAACP?

A. Not personally.

Q. Do you hold any official capacity in the chapter that you are in?

A. I am President.

Q. You are President?

A. Yes, sir.

Q. And it is your testimony that nobody has ever done anything to you because you have been a member of the NAACP?

A. Not as I know of.

Q. And to your wife either?

A. No.

Q. Do your know how many members are presently in the Red River branch of the NAACP?

A. Now, you mean?

Q. Yes.

A. Well, there's just a mighty few.

Q. Approximately?

A. Well, probably about eight or ten.

[fol. 212] Q. Do you know how many there were last year?

A. Well, about the same. We've been ever since—we were restrained from carrying on in the State of Louisiana, why our membership fell off and quite naturally we used to have a membership of approximately better than a hundred.

Q. In other words, it is your testimony that it was the injunction that made your membership fall off, is that correct?

A. Injunction and this here membership, sending in this membership to the State. That knocked it worse than anything else.

Q. But you, yourself, have never been intimidated in any way?

A. Never have.

Q. Or your wife?

A. Never have.

Q. And you are President of the Red River Branch?
A. That is right.

Mr. Schuler: No further questions.

Cross examination.

By Mr. Tureaud:

Q. Rev. Durham, was the list of members of your branch [fol. 213] ever published in the paper?

Witness:
A. It was.
Q. Where was that?
A. It was published in the Coushatta Citizen.
Q. And what did the Coushatta Citizen say about the membership?
A. Well, they—

Mr. Schuler: That is in evidence. You have that in the record already.
Mr. Tureaud: Very well.

By Mr. Tureaud:

Q. What did the Coushatta Citizen say about those who held membership in the branch?

Witness:
A. Well, they just stated about how many memberships was sent in to the Secretary of the State and it stated about how many soon after it come out to the paper was rushing to get their names taken off on the part of being intimidated.
Q. Did you ever try to get new members for the branch?
A. I did.
Q. What did you learn from the people you solicited? [fol. 214] A. They was feared.
Q. Of what?
A. Of being intimidated.
Q. In what way?
A. Because there's been threats made, lose their jobs and one thing or another.

Mr. Schuler: I make my hearsay objection to that.
Mr. Tureaud: Okay. That's enough.

Redirect examination.

By Mr. Culligan:

Q. Let me just ask this question: The Coushatta Citizen, that's a colored newspaper run by colored people, isn't it?

Witness:
A. No, sir. The white people, run by white people.

Mr. Tureaud: And for white?
Witness: For white.
Mr. Culligan: Are you familiar with the article written in the Coushatta Citizen of Friday, February 14, 1958?
[fol. 215] Witness: Say is I familiar with it?

Q. Yes?
A. Well, I have read it, but it's been some time. I couldn't just remember it altogether just how it goes.
Q. There is a copy of the Coushatta Citizen attached; do you ever remember reading that (indicating) article?
A. Certainly I read it.
Q. Do you know anything about that interview there between Buck and Joe?
A. No more than what I read in the paper.
Q. Do you know who Buck is?
A. Sure I know him.
Q. Who is Buck?
A. Buck Lampkin; he's a colored man.
Q. Who is Joe?
A. Joe Davis is a colored man.
Q. Is that the man who testified here a few minutes ago?
A. That was his father.

Mr. Culligan: That is all.

(Witness excused.)

(Signature waived.)

[fol. 216] J. N. BLANKENSHIP called as a witness by counsel for the State of Louisiana, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Schuler:

Q. Would you state your name, please?

Witness:

A. J. N. Blankenship or Joseph N. Blankenship.

Q. Where do you live?

A. Bienville Parish, Saline, Louisiana.

Q. Saline?

A. Route 1.

Q. How long have you been a resident of Bienville Parish?

A. Sixty-eight years.

Q. Are you presently a registered voter?

A. No, sir.

Q. Do you own your own home?

A. Yes, sir, I do.

Q. How long have you owned that home?

[fol. 217] A. Since 1922.

Q. Do you presently have a homestead exemption on that home?

A. Yes, sir.

Q. Now, are you presently employed?

A. I am a retired teacher and part-time farmer.

Q. You farm on your property?

A. Yes, sir, a little farming.

Q. Now, let's see, are you presently drawing old age pension?

A. No, sir.

Q. Does your wife draw old age pension?

A. No, sir.

Q. In the past few years have you, your wife or any member of your family been admitted to a charitable hospital in the State?

A. My father was committed to the asylum.

Q. Where?

A. Pineville.

Q. When was that?

A. He was there a couple of times, beginning in 1918.

Q. Well, in the last few years?

A. Yes, sir, the last few years; he's passed though now.

[fol. 218] Q. When did he die?

A. Died about six years ago.

Q. Since that time has any member of your family been in any charitable institution in the State?

A. No, sir.

Q. How long have you been a member of the NAACP?

A. Since fifty-two.

Q. Are you an officer in any branch?

A. On the State Board, officer.

Q. Are any of the members of your family members of the NAACP?

A. No, sir.

Q. Do you solicit membership for the NAACP?

A. I do.

Q. What branch are you a member of?

A. Shreveport Branch.

Q. Now, was your name published in an NAACP list?

A. No, sir.

Q. You were not a member of any branch that ever filed a list?

A. No, sir.

Q. In other words, you don't know whether or not you would have been discriminated against if your name had been filed, do you?

[fol. 219] A. No, sir. Beg pardon, on the NAACP State Board about four years ago it was published.

Q. Your name was published?

A. Sure, on the State Board, about four years ago.

Q. Now, do you presently get a retirement check for being an ex-teacher?

A. I do.

Q. Well, did anybody ever threaten to take that away from you?

A. No, sir.

Q. Has it been taken away from you?

A. No, sir.

Q. What was the Friendship Branch of the NAACP?
A. Say where was it?
Q. What was it? Where did it operate?
A. Bienville Parish, in the Shady Grove Community.
Q. Is that branch presently in existence?
A. No, sir.
Q. Did that branch ever file a membership list?
A. In 1958.
Q. And was your name on that list?
A. My name wasn't on that list.
Q. And you say that you never got in any trouble because—nobody ever reproached you because of that?
[fol. 220] A. No, sir.

Mr. Schuler: No further questions.

Cross examination:

By Mr. Tureaud:

Q. Mr. Blankenship, were there other persons who were approached for membership that you know of, who refused to join the NAACP because of reprisals, intimidation or threats made against them, that you know of?

Mr. Culligan: We object for the same reason previously given, that it would be hearsay, unless he had knowledge, personal knowledge.
Mr. Tureaud: Do you have any personal knowledge of persons asked to join and the answer they gave you for not joining?
Witness: I do.

Q. Can you state your experience with anybody?
A. They said that they would join but were afraid of their being under pressure of their jobs. They wouldn't [fol. 221] wish to connect with the institution, with the NAACP.

Mr. Tureaud: That is all.

Redirect examination.

By Mr. Schuler:

Q. Do you know of any person who ever lost their job because he was a member of the NAACP?

Witness:

A. Only one person, John W. Overalls. He lost his job but wouldn't join any more for the reason he said that he might wouldn't be able to continue his job.

Q. What was his job?

A. I think he was working at a bank, or something of the kind.

Q. Do you know of any other reason why he might have lost his job?

A. No, sir.

Q. When did he lose his job?

A. I disremember. About the time they brought our—injunction in the State, when they—

Q. As I understand it, about the time that the first injunction was brought?

A. Yeah, that's right.

[fol. 222] Q. Had your organization filed a list at that time?

A. They—that was about the time that they was—he lost his job.

Q. Which time?

A. I believe it must have been in fifty-six.

Q. In fifty-six, he lost his job?

A. I think, yes, sir.

Q. Do you remember what time in fifty-six?

A. No, sir, I do not.

Q. Was it early in the year, late in the year, in the summer, the winter, the fall?

A. Seems like it was about the time of the campaign—the time they purged the rolls in Bienville Parish. About the time they purged the rolls.

Q. I didn't know the rolls were purged. Can you give me a little bit better information than that?

A. It was the time they got six hundred and thirty of us off and left sixteen.

Q. Well, that still doesn't help. Registration for voting?

A. Sure, registration for voting. That's the time.

Q. Well, you are talking about filing—

[fol. 223] Mr. Turcaud: Six hundred thirty members on the rolls were registered voters.

Witness: Sure that was the time we got shook up.

Redirect examination.

By Mr. Schuler (continued):

Q. What did you say this man's name was again?

Witness:

A. John W. Overalls.

Q. And you said he worked at a bank?

A. Yes, sir.

Q. What bank did he work at?

A. The bank in Arcadia.

Q. Bank in Arcadia. Well, that's not Bienville Parish, is it?

A. Yes, that's Bienville.

Q. I thought you were talking about Arcadia Parish, excuse me. How old was he, do you know?

A. He ought to be around fifty, between forty-five and fifty.

Q. Do you know who he is presently working for?

A. Possibly, I heard that he was working for—in fact, the institution in Grambling, Grambling College.

[fol. 224] Q. Oh, he is working for a State institution now?

A. Yes, sir. That is why he will not connect himself with the NAACP.

Q. But you said he left a private bank and went to work for the State, is that correct?

A. I think possibly that's correct.

Q. That is the only one that you know about, is that correct?

A. That's the only one.

Mr. Schuler: No further questions.

Recross examination.

By Mr. Tureaud:

Q. Were you ever a registered voter in the State of Louisiana?

Witness:

A. I was.

Q. And what happened to your registration?

A. The time when they brought about the purge in 1956, and this was the time they got six hundred and thirty of us off, and they asked me to come back to—I mean, I got a ten days' notice to come back and try it again, but I felt kind [fol. 225] of discouraged. I did go back January 2nd, 1958, and they gave me a constitution to, they said, which was a bondage (sic) out of New Orleans, and asked me to read it and make an interpretation of it, the Registrar did. And so I did the best I possibly could but they said go back and study some more.

Q. These six hundred and thirty that you say were purged, were they white or colored?

A. These was colored.

Q. Were there any white names purged from the roll?

A. I didn't see any in the paper.

Redirect examination.

By Mr. Schuler:

Q. You don't know, as a matter of fact, whether any white people were purged from the rolls?

Witness:

A. No, sir, I was just—

Q. Now, these people that were purged, were they all members of the NAACP?

A. No, sir.

Q. Were they all people whose names had been filed on [fol. 226] the lists?

A. Yes, sir. They were purged and plus the others.

Q. I know, but there were people beside the people who were members of the NAACP?

A. Yes, sir.

Q. In other words, membership in the NAACP and the filing of your name on the list were not the sole reason for the purging?

A. Well, I tell you, we had about seventy members in the NAACP and they dropped down to seven.

Q. No, but what I am saying, that people other than members of the NAACP were purged at the same time?

A. Oh, yes, sir.

Q. In the other words, membership as a member of the NAACP or filing the name of the members was not the sole reason for the purge, is that correct?

A. No, sir, I don't think, no, sir.

Mr. Schuler: No further questions.

(Witness excused.)

(Signature waived.)

[fol. 227] R. L. Williams witness called by counsel on behalf of the State of Louisiana, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Schuler:

Q. Would you state your name please?

Witness:

A. R. L. Williams.

Q. Where do you live, Mr. Williams?

A. I live at 220 Northwestern Avenue.

Q. Where?

A. Shreveport, Louisiana.

Q. How old are you?

A. I am sixty-six. I will be sixty-seven my next birthday.

Q. Are you presently employed?

A. Well, yes.

Q. In what capacity?

A. Well, I'm in business working with my brother, kind

of a— Well, I don't know; it's a business capacity I'm [fol. 228] in.

Q. Doing what?

A. Cleaning and pressing. In other words, I'm what you call a route man.

Q. Do you own your own home?

A. No, I don't own a home now.

Q. Do you pay state income tax?

A. No, I don't pay any state income tax.

Q. Do you pay Federal income?

A. No.

Q. How much do you earn at your present employment?

A. Oh, around, probably twenty-five hundred dollars a year.

Q. Are either you or your wife on old age pension?

A. I am.

Q. You are presently drawing the old age pension?

A. Yes, started this year.

Q. Have you ever been threatened with being taken off the old age pension rolls?

A. No.

Q. Even though you are employed?

A. Even though employed.

Q. Even though you are employed, you have never been threatened to be taken off the rolls?

[fol. 229] A. No.

Q. Is your wife old enough to draw old age pension?

A. No.

Q. Do you have any children?

A. I have six.

Q. Have either you, your wife, or any of your children been in any charitable institution in the State of Louisiana?

A. Well, my children, I takes them to the Confederate Memorial because we are in that category of having such a big family for such a little income till they can get treatment there.

Q. Have you ever taken them in the past three or four years?

A. Three or four years?

Q. Yes, your children?

A. Sure.

Q. Have you ever been denied admission to that hospital?

A. No.

Q. Has anybody ever told you that membership in the NAACP would keep you from getting treatment in that hospital?

A. I never have heard about it.

[fol. 230] Q. As a matter of fact, have you been refused any State benefits of the State as a result of being a member of the NAACP?

A. No, I haven't.

Q. Are you a registered voter?

A. Yes.

Q. How long have you been a registered voter?

A. Since 1945, I imagine.

Q. At any time has anybody made any attempt to purge you from the rolls?

A. Not as I know— You mean from the NAACP rolls?

Q. No, from the registration roll?

A. No, we haven't had any purging here, in this city.

Q. Is your wife a member of the NAACP?

A. No, she isn't a member.

Q. Are any of your children members?

A. No, they are not old enough. They are small children.

Q. How much are the dues?

A. Well, the dues—it is owing to what you want to pay. The minimum is two dollars, and, of course, you pay two dollars, five, fifty-five, hundred—

[fol. 231] Q. You pay whatever you want to pay?

A. Yearly you renew your membership—if you pay two dollars this year, if you want to be a member next year you have to renew that membership by paying another two dollars, or whatever you wish to pay.

Q. Are you an officer in the Shreveport Branch of the NAACP?

A. I am the President of the—

Q. How many members do you presently have?

A. We have approximately forty at this present time.

Q. Do you remember how many members you had last year?

A. I wasn't President last year, I just become President this year, around about June after the NAACP went down

here. Something happened, the membership got bad, and it went down.

Q. Something happened, you don't know what?

A. Well, the membership went down.

Mr. Schuler: No further questions.

Mr. Tureaud: That is all.

(Witness excused.)

(Signature waived.)

[fol. 232] REPORTER'S CERTIFICATE

State of Louisiana :
Parish of Caddo :

I, V. E. Creiglow, Court Reporter, Deputy Clerk, First Judicial District Court of Louisiana, and Ex-Officio Notary Public, hereby certify that the foregoing pages of printing constitute a true and correct transcript of my recording of the depositions of Frank Davis, L. A. Durham, J. N. Blankenship, and R. L. Williams, taken in the Caddo Parish Courthouse, Shreveport, Louisiana, on Thursday, November 19, 1959, beginning at three o'clock P. M. in accordance with the agreement of counsel, at which time and place the said witnesses were duly sworn to tell the truth, the whole truth, and nothing but the truth, so help them God, after which they did testify as shown in the foregoing transcript; said depositions being taken on behalf of the State of Louisiana under agreement of counsel to waive formalities in the taking, transcribing and return thereof, except that the witnesses should be sworn before testifying.

I Further Certify that I am not related to any of the [fol. 233] parties to this suit, am not of counsel for any of them, and have no financial interest in the outcome hereof.

In Witness Whereof, I have hereunto affixed my signature and seal at Shreveport, Louisiana, this the nineteenth day of November, A. D. 1959.

V. E. Creiglow, Court Reporter, Deputy Clerk, First Judicial District of Louisiana, and Ex-Officio Notary Public.

[fol. 234] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

No. 1678

THE STATE OF LOUISIANA, EX REL.
JACK P. F. GREMILLION, Attorney, Plaintiff-Respondent,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL., Defendants-Petitioners.

No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL., Plaintiffs,

v.

WADE O. MARTIN, JR., Secretary of State,
State of Louisiana, *et al.*, Defendants.

OPINION—Filed February 5, 1960

Before WISDOM, Circuit Judge, and CHRISTENBERRY, and WRIGHT, District Judges.

PER CURIAM:

In these consolidated proceedings the Court is required to determine the constitutionality of certain Louisiana statutes (Act 2 of 1924, La. R.S. of 1950, 12:401-409 and Act 260 of 1958, La. R.S. of 1950, 14:385-388) in the application of these statutes to the National Association for the Advancement of Colored People.

The association alleges that the disclosure of its membership, required under Act 2 of 1924, subjects its members

to economic reprisals, loss of employment, threat of physical coercion, and other acts of public hostility, in violation of the First Amendment freedoms of speech and assembly and in violation of the due process clause of the Fourteenth Amendment. The Supreme Court decision of NAACP v. Alabama, 1958, 357 U.S. 449, controls the case now before us. In that decision, using the phrase "freedom of association" for the first time, the Supreme Court held that the NAACP was protected against forced disclosure of its membership.

[fol. 235] Act 2 of 1924 was passed to curb the Ku Klux Klan, then engaged in Louisiana, as elsewhere, in acts of lawlessness and violence. It requires the principal officer in Louisiana "of each fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military or social organization" operating in Louisiana to file annually a list of the names and addresses of its membership residing in the state. It provides criminal penalties (mandatory jail sentences) for failure to file, as well as for holding meetings without filing.

A similar statute was held constitutional, as applied to the Klan, in Bryant v. Zimmerman, 1928, 278 U.S. 63. In that case, the Court took judicial notice that the Klan "functions largely at night, its members disguised by hoods and gowns and doing things calculated to strike terror into the minds of the people". In NAACP v. Alabama the Supreme Court distinguished Bryant v. Zimmerman on the ground that the "decision was based on the particular character of the Klan's activities, involving acts of unlawful intimidation and violence. . . ." Unlike the Ku Klux Klan, the NAACP, however unpopular in Louisiana, officially and unofficially, is not shown to be an organization dedicated to "unlawful intimidation and violence".[1]

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[1] The certificate of incorporation of the NAACP provides that its "* * * principal objects * * * are voluntarily to promote equality of rights and eradicate caste or race prejudice among the citizens of the United States; to advance the interests of colored citizens; to secure for them impartial suffrage; and to increase their opportunities for securing justice in the courts, education for their children, employment according to their ability and complete equality before the law."

Until 1956 Act 2 of 1924 was not enforced. Few, if any, organizations complied with its provisions. After the decision of the Supreme Court in Brown v. Board of Education of Topeka, 1954, 349 U.S. 294, the then Attorney General of Louisiana brought one of the actions here in suit to enjoin the NAACP from operating in the state, for failure to comply with the statute. After the Attorney General's action and until the decision of the Supreme Court in NAACP v. Alabama, some of the affiliates of the NAACP in Louisiana filed membership lists as required by the statute. Since NAACP v. Alabama, the NAACP has not complied.

The documentary evidence submitted by the NAACP shows that some members, after exposure as members, have been subjected to certain economic reprisals. The Court's attention is called to the fact that the record shows that a large part of the NAACP membership was made up of teachers, and that Louisiana statutes deny employment to teachers[2] and others[3] who believe in the integration of [fol. 236] the races in public schools. After disclosure of the membership of NAACP affiliates in Louisiana, virtually *all* the teachers resigned and the general membership was reduced significantly.[4]

In NAACP v. Alabama, denying the State of Alabama access to the membership lists of the NAACP, the Supreme Court stated: "We hold that the immunity from state scrutiny of membership lists which the Association claims on behalf of its members is here so related to the right of the members to pursue their lawful private interests privately and to associate freely with others in so doing as to come within the protection of the Fourteenth Amendment. And we conclude that Alabama has fallen short of

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[2] La. R.S. of 1950, 17:462.

[3] La. R.S. of 1950, 17:493.

[4] Since 1955, the year before the injunction proceedings were begun against the NAACP, the number of NAACP branches in Louisiana has declined from 65 to 10 and the total membership has declined from 13,000 to 6,000.

showing a controlling justification for the deterrent effect on the free enjoyment of the right to associate which disclosure of membership lists is likely to have." 357 U.S. at 466. There is no difference at law between that case and this case.

There is no need to discuss Act 260 of 1958 at length. In open court the Attorney General conceded that the state was not interested in pressing the argument as to the constitutionality of the Act. He cited no authority in the brief. The state's concession is understandable. Act 260 would require, as a prerequisite for conducting activities in the state, that "every non-trading corporation, partnership or association of persons engaged in social, educational or political activities affiliated with any similar non-trading corporation, partnership or association of persons chartered, created, or operating under the laws of any other state, file an affidavit attesting to the fact that none of the officers of such out-of-state or foreign corporation, partnership or association of persons with which it is affiliated is a member of any organization cited by the House of Congress (sic) Un-American Activities Committee or the United States Attorney General, as Communist, Communist front or subversive". The statute would require the impossible. It is clearly unconstitutional. NAACP v. Alabama, 357 U.S. 449; DeJonge v. Oregon, 299 U.S. 353; Near v. Minnesota, 283 U.S. 697.

A judgment and injunctive order will be issued in accordance with this opinion.

[fol. 238] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

No. 1678

THE STATE OF LOUISIANA, EX REL.
JACK P. F. GREMILLION, Attorney, Plaintiff-Respondent,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL., Defendants-Petitioners.

No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL., Plaintiffs,

v.

WADE O. MARTIN, JR., Secretary of State,
State of Louisiana, *et al.*, Defendants.

TEMPORARY INJUNCTION—Filed February 26, 1960
and entered February 29, 1960

These consolidated causes having been heard by this court on application of the National Association for the Advancement of Colored People and on application of the State of Louisiana for a temporary injunction, and the evidence having been adduced in affidavit and documentary form, and counsel for the National Association for the Advancement of Colored People and the Attorney General of the State of Louisiana having argued orally and submitted written briefs, and the court having considered all the evidence, the arguments and the briefs, the court is now ready to rule.

It Is Ordered:

1. That the application of the State of Louisiana for a temporary injunction be, and the same is hereby, Denied.

[fol. 239] 2. That the Attorney General of the State of Louisiana, his assigns, agents or successors in office, and all persons acting in concert with him, and all other agents or agencies of the State of Louisiana, are hereby enjoined from enforcing, executing or proceeding against the National Association for the Advancement of Colored People, its affiliates, officers, members, contributors, voluntary workers, or any of them, under the provisions of Act 2 of 1924, La. R.S. of 1950, 12:401-409, and Act 260 of 1958, La. R.S. of 1950, 14:385-388, in such a manner as to compel the disclosure of the names or addresses of any member or contributor of the National Association for the Advancement of Colored People in the State of Louisiana or to require the submission of an affidavit by any officer of any local affiliate of the National Association for the Advancement of Colored People required by the provisions of Act 260 of 1958, La. R.S. of 1950, 14:385-388.

3. That the Attorney General of the State of Louisiana, his assigns, agents or successors in office, and all persons acting in concert with him, and all other agents or agencies of the State of Louisiana, are hereby enjoined from enforcing any penalties against the National Association for the Advancement of Colored People or any of its members, officers or contributors for failure to comply with the provisions of Act 2 of 1924, La. R.S. of 1950, 12:401-409, and Act 260 of 1958, La. R.S. of 1950, 14:385-388, as hereinbefore held invalid.

4. That the Attorney General of the State of Louisiana, his assigns, agents or successors in office, and all persons acting in concert with him, and all other agents or agencies of the State of Louisiana, are hereby enjoined from proceeding with or participating in any judicial proceeding, and particularly the judicial proceeding numbered 141252 now pending in the First Judicial District Court, Caddo Parish, Louisiana and entitled "State Ex Rel. Jack P. F.

Gremillion, Attorney General v. Shreveport Branch, National Association for the Advancement of Colored People, [fol. 240] et al.," against the National Association for the Advancement of Colored People, its affiliates, officers, members, contributors, voluntary workers, or any of them, under the provisions of Act 2 of 1924, La. R.S. 12:401-409, and Act 260 of 1958, La. R.S. 14:385-388.

5. That jurisdiction of this court is retained for the purpose of enforcing this temporary injunction and for the purpose of granting any further relief which may be warranted.

John Minor Wisdom, Circuit Judge
Herbert W. Christenberry, District Judge
J. Skelly Wright, District Judge

[fol. 241] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

No. 1678

THE STATE OF LOUISIANA EX REL. JACK P. F. GREMILLION, Attorney General, Plaintiff,

vs.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL., Defendants.

MOTION OF PLAINTIFF FOR NEW TRIAL—Filed March 7, 1960

Now come the plaintiff in the above numbered and entitled cause and show that the opinion, ruling, and decree herein entered by the District Court on February 29, are contrary to the law and the evidence and the plaintiff are

aggrieved thereby and are entitled to a new trial and the rehearing for the following reasons more particularly set forth hereinbelow, as follows:

I.

That in the light of the evidence introduced, both by the plaintiffs and defendants herein, the Court erroneously concluded that members of the N. A. A. C. P. were intimidated and/or coerced economically or otherwise as a result of their names being published as members of the N. A. A. C. P.

II.

That the Court erred in finding that the State of Louisiana did not show justification for the production of the membership list.

[fol. 242]

III.

That apparently the language of the Court used in this decree would also prohibit the State from requesting that the N. A. A. C. P. and its affiliates produce a list of its officers, which ruling would not come under the Alabama case even if such case were applicable herein.

IV.

That the Court erred in permitting the permission for removal in this case since it was defective on its face and failed to comply with Section 1446 of Title 28 the United States code in the following respects:

1) Copies of all proceedings, pleadings and orders served upon defendants in the original action were not attached.

2) The allegation of petition did not state any valid or constitutional reason for removal of this case from the District Court.

3) The petition for removal on its face shows that it is not filed timely and that it shows that all of defendants were either served or received a copy of the

initial pleadings more than twenty days before filing the petition to remove.

4) The petition for removal shows on its face that all of the defendants did not join therein and no reason is given for the failure to join the other defendants.

Wherefore, plaintiff pray that the opinion, ruling and decree rendered herein by the District Judge on February 29, 1960 be reconsidered and set aside and that a new trial and a rehearing be granted herein to consider the errors urged above, and on final hearing that an order issue dismissing the suit of the defendants at their cost; for all orders and decrees necessary and for general and equitable relief.

Respectfully submitted,

[fol. 243] Jack P. F. Gremillion, Attorney General, George M. Ponder, First Assistant Attorney General, William P. Schuler, Special Assistant Attorney General, M. E. Culligan, Special Assistant Attorney General.

[fol. 244] Certificate

I hereby certify that a copy of the motion for new trial and memorandum attached thereto has been served on opposing counsel A. P. Tureaud by placing the same in the United States mail with sufficient postage annexed thereto.

William P. Schuler, Assistant Attorney General.

[fol. 245] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

No. 8554

NEW ORLEANS BRANCH of the National Association for the Advancement of Colored People, et al., Plaintiffs,

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al., Defendants.

MOTION OF DEFENDANTS FOR NEW TRIAL—Filed March 7, 1960

Now come the defendants in the above numbered and entitled cause and show that the opinion, ruling, and decree herein entered by the District Court on February 29, are contrary to the law and the evidence and the defendants are aggrieved thereby and are entitled to a new trial and the rehearing for the following reasons more particularly set forth herein below, as follows:

I.

That the Court erred in permitting the National Association for the Advancement of Colored People to advance rights purely personal to individuals, when certain individuals had the opportunity to champion their own rights.

II.

That in the light of the evidence introduced, both by the plaintiffs and defendants herein, the Court erroneously concluded that members of the National Association for the Advancement of Colored People were intimidated and/or coerced, economically or otherwise as a result of their [fol. 246] names being published as members of the National Association for the Advancement of Colored People.

III.

That the Court erred in finding that the State of Louisiana did not show justification for the production of the membership list.

IV.

That apparently the language of the Court used in this decree would also prohibit the State from requesting that the National Association for the Advancement of Colored People and its affiliates produce a list of its officers, which ruling would not come under the Alabama case even if such case were applicable herein.

V.

That the Court erred in declaring unconstitutional Act 260 of 1958.

Wherefore, defendants pray that the opinion, ruling and decree rendered herein by the District Judge on February 29, 1960, be reconsidered and set aside and that a new trial and a rehearing be granted herein to consider the errors urged above, and on final hearing that an order issue dismissing the suit of the plaintiffs at their cost; for all orders and decrees necessary and for general and equitable relief.

Respectfully submitted,

[fol. 247] Jack P. F. Gremillion, Attorney General, George M. Ponder, First Assistant Attorney General, William P. Schuler, Special Assistant Attorney General, M. E. Culligan, Special Assistant Attorney General.

[fol. 248] Certificate

I hereby certify that a copy of the motion for new trial and memorandum attached thereto has been served on opposing counsel A. P. Tureaud by placing the same in the United States mail with sufficient postage annexed thereto.

William P. Schuler, Assistant Attorney General.

[fol. 249] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 1678

THE STATE OF LOUISIANA EX REL. JACK P. F. GREMILLION, Attorney General,

vs.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.

NEW ORLEANS DIVISION

Civil Action No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.

vs.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

PLAINTIFFS' OPPOSITION TO MOTION FOR REHEARING—
Filed March 15, 1960

Plaintiffs oppose the motions of defendants for a new trial or rehearing in the above cases for the reason that the evidence discloses that the fear of reprisal and economic harm to members of the NAACP, if their names are published, is real and imminent, and that there has been evidence that those who have been identified were subjected to reprisals of one form or another.

The Court's decision is eminently correct and its rationale has been completely vindicated by the United States Su-

preme Court in a similar case, *Bates* v. *City of Little Rock*, —— U. S. ——, 28 L. W. 4102, February 23, 1960. The Supreme Court has made it clear that the burden is on the state to justify any interference with freedom of speech and association. There clearly was no such showing in this case.

More recently, the Supreme Court of the United States extended the doctrine enunciated by this Court in this case and by it in NAACP v. Alabama, 357 U.S. 449, and in the *Bates* case, supra, to strike down a California statute requiring the identification of the manufactures and author of handbills distributed in the City, *Talley* v. *California*, [fol. 250] —— U.S. ——, 28 L. W. 4186. It is clear, therefore, that the decision of this Court in this case is in accord with the controlling decisional law.

It is respectfully submitted that the motion of defendants should be denied.

Respectfully submitted,

A. P. Tureaud, 1821 Orleans Avenue, New Orleans, La.; Robert L. Carter, 20 West 40th Street, New York 18, N. Y., Attorneys for Plaintiffs.

Certificate

I hereby certify that a copy of plaintiffs' opposition to motion for rehearing has been served on opposing counsel Jack P. F. Gremillion, Attorney General of Louisiana, by placing the same in the United States mail with sufficient postage affixed thereto.

A. P. Tureaud, Attorney for Plaintiffs.

[fol. 251]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 1678

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, Attorney General,

vs.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.

NEW ORLEANS DIVISION

Civil Action No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.

vs.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

MINUTE ENTRY OF ORDER DENYING MOTIONS FOR REHEARING —March 31, 1960

These cases came on for rehearing on motions of the plaintiffs in Civil Action No. 1678, Baton Rouge Division, and of the defendants in Civil Action No. 8554, New Orleans Division. The court, having studied the briefs filed by counsel with respect to the motions, is now ready to rule.

It Is Ordered that the motions for rehearing be, and the same are hereby, Denied.

JSW
JMW
H.W.C.

Wisdom, J., Christenberry, J., Wright, J.

March 30, 1960

[fol. 252] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 1678

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, Attorney General,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed April 25, 1960

I.

Notice is hereby given that the State of Louisiana, Ex Rel. Jack P. F. Gremillion, plaintiff in the above numbered and entitled matter hereby appeal to the Supreme Court of the United States from the judgment of the three judge court issuing a preliminary injunction restraining the defendants from enforcing Act 2 of 1924 and Act 260 of 1958 of the Louisiana State Legislature on ground of unconstitutionality entered in this action on February 29, 1960, rehearing denied on March 31, 1960.

This appeal is taken pursuant to 28 U.S.C. Section 1263.

II.

The Clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States, and said transcript will include the entire record.

III.

The following questions are presented by this appeal:

1) May the State in the exercise of its police power require certain organizations, within the State, to file membership lists?

2) Has the State of Louisiana shown justification for the requirement that certain organizations, within the State, file membership lists?

3) May the State of Louisiana require certain organizations, operating in the State, to furnish to it lists of officers of said organizations?

4) Can the right of freedom of association completely nullify and subvert a reasonable exercise of State police power?

[fol. 253]

5) Did the Court err in permitting the removal of this case from the State Court, despite defendant's failure to comply with the removal statutes?

Jack P. F. Gremillion, By W. P. Schuler, Attorney General, George Ponder, By W. P. Schuler, First Assistant Attorney General, M. E. Culligan, Assistant Attorney General, William P. Schuler, Assistant Attorney General.

[fol. 254] Proof of Service (omitted in printing).

[fol. 255] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed April 25, 1960

I.

Notice is hereby given that Wade O. Martin, Jr., Jack P. F. Gremillion and Richard A. Dowling, defendants in the above numbered and entitled matter hereby appeal to the Supreme Court of the United States from the judgment of the three judge court issuing a preliminary injunction restraining the defendants from enforeing Act 2 of 1924 and Act 260 of 1958 of the Louisiana State Legislature on ground of unconstitutionality entered in this action on February 29, 1960, rehearing denied on March 31, 1960.

This appeal is taken pursuant to 28 U.S.C. Section 1263.

II.

The Clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States, and said transcript will include the entire record.

III.

The following questions are presented by this appeal:

1) May the State in the exercise of its police power require certain organizations, within the State, to file membership lists?

2) Has the State of Louisiana shown justification for the requirement that certain organizations, within the State, file membership lists?

3) May the State of Louisiana require certain organizations, operating in the State, to furnish to it lists of officers of said organizations?

4) Can the right of freedom of association completely nullify and subvert a reasonable exercise of State police power?

[fol. 256] Jack P. F. Gremillion, By W. P. Schuler, Attorney General, George Ponder, By W. P. Schuler, First Assistant Attorney General, M. E. Culligan, Assistant Attorney General, William P. Schuler, Assistant Attorney General.

[fol. 257] Proof of Service (omitted in printing).

[fol. 258] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 1678

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, Attorney General,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

ORDER GRANTING MOTION FOR EXTENSION OF TIME TO FILE RECORD AND JURISDICTIONAL STATEMENT—June 2, 1960

On motion of William P. Schuler, Attorney for the State of Louisiana, appellant herein, and on suggesting to the court that appellant herein filed its notice of appeal on the

25th day of April, 1960, and that under the Federal rules the transcript and jurisdictional statement should be lodged within sixty days from the date of the filing of the notice of appeal.

And on further suggesting to the court that your mover herein is and has been unable to have said record and jurisdictional statement prepared and, therefore, desires an additional forty-five days within which to lodge said transcript and jurisdictional statement.

It Is Ordered that appellant in the above numbered and entitled cause be and is hereby granted an additional period of forty-five days within which to lodge his transcript and jurisdictional statement in the United States Supreme Court.

New Orleans, Louisiana

J. Skelly Wright, Judge.

Certificate

I hereby certify that a copy of the foregoing motion for enlargement of time was served on attorney for appellee herein by placing the same in the United States Mail, addressed to his office, at 1821 Orleans Avenue, with sufficient postage annexed.

William P. Schuler

[fol. 259] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

Civil Action No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

ORDER GRANTING MOTION FOR EXTENSION OF TIME TO FILE RECORD AND JURISDICTIONAL STATEMENT—June 2, 1960

On motion of William P. Schuler, attorney for Wade O. Martin, Jr., Jack P. F. Gremillion and Richard A. Dowling, appellants herein, and on suggesting to the court that appellants herein filed their notice of appeal on the 25th day of April, 1960, and that under the Federal rules the transcript and jurisdictional statement should be lodged within sixty days from the date of the filing of the notice of appeal.

And on further suggesting to the court that your mover herein is and has been unable to have said record and jurisdictional statement prepared and, therefore, desires an additional forty-five days within which to lodge said transcript and jurisdictional statement.

It Is Ordered that appellant in the above numbered and entitled cause be and is hereby granted an additional period of forty-five days within which to lodge his transcript and jurisdictional statement in the United States Supreme Court.

New Orleans, Louisiana

J. Skelly Wright, Judge.

Certificate

I hereby certify that a copy of the foregoing motion for enlargement of time was served on attorney for appellee herein by placing the same in the United States Mail, addressed to his office, at 1821 Orleans Avenue, with sufficient postage annexed.

William P. Schuler

[fol. 262] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 1678

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, Attorney General,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

NEW ORLEANS DIVISION

Civil Action No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

MOTION TO HAVE ORIGINAL RECORDS IN THE DISTRICT COURT TRANSMITTED TO THE CLERK OF THE SUPREME COURT OF THE UNITED STATES, AS A PART OF THE RECORD UPON APPEAL—Filed August 2, 1960

Appellants, petition the court, pursuant to rule 12 of the rules of the Supreme Court of the United States to au-

thorize and instruct the clerk of the District Court to transmit, as part of the record upon appeal being filed in the Supreme Court of the United States, the original of all documents, petitions; motions, transcripts, exhibits, or other parts of the District Court records of which there are no records on file upon the following grounds.

And that there are only originals of the documents, petitions, motions, transcripts, exhibits and other parts of the District Court records on file which must be submitted to the Supreme Court. A great deal of expense and work would be required to prepare copies thereof for the transcript of record on appeal.

August 1, 1960

William P. Schuler, Counsel of Appellants.

[fol. 263]

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 1678

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, Attorney General,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

NEW ORLEANS DIVISION

Civil Action No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

ORDER THAT ORIGINAL RECORDS BE FORWARDED TO SUPREME COURT—August 3, 1960

Pursuant to the motion to transmit the original record on appeal of the above-entitled cause to the Supreme Court of the United States:

It Is Hereby Ordered, that the original petition, and subsequent motions and orders and all documents and papers received in evidence in the District Court in the trial of this case held before a three judge court on December 14, 1959, may all be forwarded in lieu of copies of such documents and papers, to the Clerk of the Supreme Court of the United States as part of the transcript of the record on the appeal herein.

New Orleans, Louisiana,
This 3rd day of August, 1960

Herbert W. Christenberry, Judge.

[fol. 264] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 1678

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, Attorney General,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

NEW ORLEANS DIVISION

Civil Action No. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

MOTION TO HAVE ORIGINAL RECORDS IN THE DISTRICT COURT TRANSMITTED TO THE CLERK OF THE SUPREME COURT OF THE UNITED STATES, AS A PART OF THE RECORD UPON APPEAL—Filed August 2, 1960

Appellants, petition the court, pursuant to rule 12 of the rules of the Supreme Court of the United States to authorize and instruct the clerk of the District Court to transmit, as part of the record upon appeal being filed in the Supreme Court of the United States, the original of all documents, petitions, motions, transcripts, exhibits, or other parts of the District Court records of which there are no records on file upon the following grounds.

And that there are only originals of the documents, petitions, motions, transcripts, exhibits and other parts of the District Court records on file which must be submitted to the Supreme Court. A great deal of expense and work would be required to prepare copies thereof for the transcript of record on appeal.

August 1, 1960

William P. Schuler, Counsel of Appellants.

[fol. 265]

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

Civil Action No. 1678

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, Attorney General,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

NEW ORLEANS DIVISION

Civil Action No. 8554

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New Orleans, Louisiana,
This 3rd day of August, 1960

Herbert W. Christenberry, Judge.

[fol. 266]

SUPREME COURT OF THE UNITED STATES

No. 294, October Term, 1960

LOUISIANA EX REL. JACK P. F. GREMILLION,
Attorney General, et al., Appellants,

vs.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE, et al.

Appeal from the United States District Court for the Eastern District of Louisiana.

ORDER NOTING PROBABLE JURISDICTION—October 24, 1960

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

No. ———

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, ATTORNEY GENERAL,

Appellant,

versus

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

Appellee.

WADE O. MARTIN, JR., SECRETARY OF STATE, STATE OF LOUISIANA, ET AL.,

Appellant,

versus

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

Appellee.

Appeal from the United States District Court for the Eastern District of Louisiana, New Orleans Division.

JURISDICTIONAL STATEMENT ON BEHALF OF APPELLANTS.

JACK P. F. GREMILLION,
Attorney General,
State of Louisiana,
Capitol,
Baton Rouge, Louisiana;

GEORGE PONDER,
First Assistant Attorney General,
State of Louisiana,
Capitol,
Baton Rouge, Louisiana;

WILLIAM P. SCHULER,
Assistant Attorney General,
Supreme Court Building,
New Orleans 12, Louisiana,
Attorneys for Appellants.

Montgomery & Co., "The Brief Specialists", 430 Chartres St., N. O., La.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

No. ———

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, ATTORNEY GENERAL,

Appellant,

versus

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

Appellee.

WADE O. MARTIN, JR., SECRETARY OF STATE, STATE OF LOUISIANA, ET AL.,

Appellant,

versus

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

Appellee.

Appeal from the United States District Court for the Eastern District of Louisiana, New Orleans Division.

JURISDICTIONAL STATEMENT ON BEHALF OF APPELLANTS.

STATEMENT AS TO JURISDICTION.

Appellants appeal from the judgment of the United States District Court for the Eastern District of Louisiana, sitting as a three-judge Court, entered on the 29th day of February, 1960, motion for new trial denied on March 31, 1960, declaring unconstitutional Louisiana Revised Statutes of 1950, 12:401-409 (Act 2 of 1924) and

Louisiana Revised Statutes of 1950, 14:385-388 (Act 260 of 1958), and further enjoining enforcement of said statutes insofar as they might effect the National Association for the Advancement of Colored People, its affiliates, officers, members, contributors, voluntary workers, or any of them; appellants further submit this statement to show that the Supreme Court of the United States has jurisdiction of this appeal and that a substantial question is presented.

OPINION BELOW.

The opinion of the United States District Court for the Eastern District of Louisiana is not yet reported, however the judgment of the Court and the reasons therefor are attached hereto as Appendix "A".

BASIS OF JURISDICTION.

I.

One of these suits was originally brought in the 19th Judicial District Court for the Parish of East Baton Rouge, State of Louisiana *(State of Louisiana, ex rel. Jack P. F. Gremillion, v. National Association for the Advancement of Colored People)* seeking to enjoin appellee, National Association for the Advancement of Colored People, from doing business in the State of Louisiana. The said suit was subsequently removed to Federal Court, where it was subsequently consolidated with the other suit herein brought by the New Orleans Chapter of the National Association for the Advancement of Colored People against certain state officers pursuant to 28 U. S. C. 1531, 28 U. S. C. 1343 and 28 U. S. C. 2201 seeking a declaratory judgment to determine constitutionality of R. S.

14:385-389 and R. S. 12:401-409; and further seeking to enjoin the enforcement of said statutes against the National Association for the Advancement of Colored People, its affiliates, members, etc. The judgment of the District Court was entered February 29, 1960, the motion for the trial was denied on March 31, 1960, and the notice of appeal was filed in that Court on April 25, 1960.

II.

The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by Title 28, U. S. C. 1253, since the case was heard by a three-judge Court pursuant to 28 U. S. C. 2281-4.

III.

The following decisions sustain the jurisdiction of the Supreme Court to review the judgment on direct appeal in this case:

Herkness v. Irion, 49 S. Ct. 40, 278 U. S. 92, 73 L. Ed. 198;

Palmetto Fire Ins. Co. v. Conn, 47 S. Ct. 88, 272 U. S. 295, 71 L. Ed. 243.

IV.

The following statutes of the State of Louisiana were held to be invalid:

Louisiana Revised Statutes 12:401-409 (Act 2 of 1924);

Louisiana Revised Statutes 14:385-389 (Act 260 of 1958).

THE FOLLOWING QUESTIONS ARE PRESENTED BY THIS APPEAL.

In declaring Louisiana Revised Statutes 14:385-389 and Louisiana Revised Statutes 12:401-409 unconstitutional insofar as they pertain to the National Association for the Advancement of Colored People or any of its affiliates, officers, members, contributors, etc., being forced or compelled to disclose names or addresses of any member or contributor of the National Association for the Advancement of Colored People or from requiring any affidavits from being submitted under provisions of Act 260 of 1958, the District Court for the Eastern District of Louisiana committed the following error:

(a) In failing to recognize the sovereign right of the state to exercise its police power by requiring that certain organizations, doing business within the state, file membership lists.

(b) In failing to recognize that the production of the aforesaid membership and officers lists was vital in order that the state perform its obligations to its citizens.

(c) In holding that the National Association for the Advancement of Colored People or its affiliates do not have to file with the state a list of officers of the parent organization, or its affiliate branches located within the state.

(d) In denying to the State of Louisiana the right to protect itself against associations dominated and controlled by Communists or subversive leadership.

(e) In permitting the action originally brought to the State Court, to be removed to Federal Court, despite the complete failure to comply with the removal statutes.

V.

STATEMENT OF THE CASE.

The State of Louisiana on the first day of March, 1956, filed in the 19th Judicial District Court for the Parish of East Baton Rouge a suit seeking to enjoin the National Association for the Advancement of Colored People from doing business in the State, because of its failure to comply with the provisions of Louisiana Revised Statutes 12:401-409 which required that said membership corporation file a list of its members and officers with the Secretary of State once each year. A petition for removal (Civil Action No. 1678, *State of Louisiana, ex rel. Jack P. F. Gremillion, v. National Association for the Advancement of Colored People, et al.)* was filed in the United States District Court for the Eastern District for Louisiana, Baton Rouge Division, on March 28, 1956, seeking to remove the suit instituted in the State Court pursuant to provisions of Title 28 U. S. C. 1443, *et seq.*

Despite the proported petition for removal the State District Court issued an injunction restraining the National Association for the Advancement of Colored People, its affiliates and members, from functioning in the state until the membership and officer list filing requirement had been complied with. On November 26, 1956, Louisiana Court of Appeals, First Circuit, held that since a proported removal petition had been filed in the Federal District Court, the State Court could not decide the validity of the proported removal proceeding, and that the State Court lost jurisdiction until such time as the Federal Court decided whether or not it had the jurisdiction to hear the case on removal. (90 So. 2nd. 884.)

No further action was taken on this case until such time as a subsequent case (*Orleans Branch of the NAACP, et al., v. Wade O. Martin, et al.*, Civil Action No. 8554) was instituted in the Federal District Court alleging that L. R. S. 14:385-389 as well as L. R. S. 12:401-409 were unconstitutional in that they violated the due process and equal protection clauses of the Fourteenth Amendment, Article 3 of the Federal Constitution and Amendment 1 to the United States Constitution.

That both of these cases were consolidated and heard before a three-judge court at which time evidence was introduced by depositions, affidavits and documents. On February 29, 1960, the three-judge court rendered judgment declaring that said statutes were unconstitutional and enjoining enforcement by any state official of their provisions against the National Association for the Advancement of Colored People and its affiliates, members, etc.

On March 7, 1960, appellants filed a motion for new trial, which was denied on March 31, 1960, and notice of appeal in these cases to the Supreme Court of the United States was filed on the 25th day of April, 1960.

THE QUESTIONS PRESENTED ARE SUBSTANTIAL.

The issues involved here present an interesting and timely inquiry into the relative status of the police power granted to the state by the Tenth Amendment and certain personal immunities and privileges granted to the individuals by the provisions of the United States Constitution.

(a and b) It is axiomatic in the law that the individual states have the power to permit or not to permit certain corporations and or organizations to be formed under the provisions of their laws and to subsequently operate within aforesaid states. The power to permit, or not to permit, such an organization to operate within the state encompasses also the power to create and enforce certain regulatory provisions which the state feels are necessary for the protection of its citizens; and to make compliance with such provisions a prerequisite to operation within the state.

The State of Louisiana is very liberal with regard to non-profit corporations and other organizations of a similar nature which desire to operate within the state. There are practically no provisions whatsoever which prohibit the formation of such organizations because of the type of dogma they seek to espouse, membership they seek to invite into their organization or endeavors they desire to undertake. Their right function is in no way discretionary with the state and their actions may not be prohibited because the state feels that those actions are not of the nature or type that the general public approves, or what is generally state policy, such as may be found in other states. To the contrary, organizations of this type may form and be operative in our state.

There are, however, certain rules and regulations which the aforesaid types of organizations must conform to, one of which was R. S. 12:401-409. These provisions were originally enacted in 1924 in order to prevent membership organizations within the State of Louisiana from being able to operate under cover of darkness. The stat-

ute herein is one which the Supreme Court is familiar with since an almost identical statute was passed upon in the case of *Bryant v. Zimmerman*, 278 U. S. 63.

The court below seemed to feel that the recent cases of the *National Association for the Advancement of Colored People v. Albama*, 357 U. S. 449, and *Bates v. the City of Little Rock*, 361 U. S. 516, were **controlling** herein, rather than the *Zimmerman* case *supra*. Appellants feel that the court below misconstrued the holdings in those two cases and should have been controlled by the holding in the *Zimmerman* case until such time as is overruled by this court.

Both the *Alabama* and *Bates* cases, while recognizing the right of freedom of association, hinge on a proposition as to whether or not the state has demonstrated an adequate interest in obtaining the membership list of organizations to justify the abridgement of associational freedom which such disclosures will affect. Both of these cases decide that the membership list would actually furnish no legitimate purpose.

> "Whether there was 'justification' in this instant termed solely on the substantiality of Alabama's interest in obtaining the membership list. During the course of a hearing before the Alabama Circuit Court on motion of petitioner to set aside a production order, the State Attorney General presented at length, under examination by petitioner the State's reasons for requesting a membership list. The exclusive purpose was to determine whether petitioner was conducting intrastate business in violation of the Alabama foreign corporation reg-

istration statute, and the membership lists were expected to help resolve this question. The issues in the litigation commenced by Alabama by its bill in equity were whether the character of petitioner in its activities in Alabama had been such as to make petitioner subject to the registration statute, and whether the extent of petitioner's activities, without qualifying, suggested its permanent ouster from the State. Without intimating the slightest view upon the merits of these issues, **we are unable to perceive that the disclosure of the names of petitioner's rank-and-file members has a substantial bearing on either of them. As matters stand in the State Court, petitioner (1) has admitted its presence and conduct of activities in Alabama since 1918: . . .**" *NAACP v. Alabama*, 357 U. S. 449, at page 464. (Emphasis supplied.)

"When it is shown that State action threatened significantly to impinge upon constitutionally protected freedom, it becomes the duty of this Court to determine whether the action bear a reasonable relationship to the achievement of the governmental purpose asserted as its justification."

"In this record we can find no **relevant correlation between the power of the municipalities to impose occupational license taxes and the compulsory disclosure and publication of the membership lists of the local branches of the National Association for the Advancement of Colored People.** The occupation license tax ordinances of the municipalities are squarely aimed at reaching all the commercial, professional, and business occupations within the

communities. The taxes are not, and as a matter of State law, cannot be, based on earnings or income but upon the nature of the occupation or enterprise conducted." *Bates v. City of Little Rock, supra*, page 9. (Emphasis supplied.)

The decision in both of these cases clearly sets forth that there is a constitutional right to freedom of association. However, neither of them establishes the principle that the State cannot require membership lists if the production of said list is reasonably necessary to achieve a legitimate and substantial governmental purpose. Thus, the Court must not only determine whether or not the petitioners herein have been deprived of a privilege and right, under the first amendment, but must further determine whether the State of Louisiana in enacting such legislation did so pursuant to a legitimate and substantial governmental purpose.

The purpose of the State of Louisiana enacting such legislation has been clearly and adequately shown by the newspaper clippings admitted into evidence as well as a law review article by the governor of the State of Louisiana showing the circumstances surrounding the enactment of the legislation, as well as the purpose for which the legislation was enacted. It is clear beyond question that the State had two purposes in mind when adopting Act 2 of 1924.

1. The Legislature intended to curtail the activities of the Klu Klux Klan by submitting to

public light a list of the members of said organization.

2. The Legislature intended that all organizations falling within the class set forth by it should in the future file membership lists so that such organization could not, at a later date, under cover of secrecy, develop into one that might be inimical to the welfare of the State of Louisiana and its citizens.

The opinion of the lower court in effect said that the State of Louisiana could require a membership list to be filed for an organization which had already committed acts of violence, but that the State would be prevented from enacting legislation which might protect its citizens in the future. In common terms, this would only permit the State to lock the barn door after the horse was already missing.

In view of the fact that the State enacted its membership filing requirement in order to achieve a legitimate and substantial governmental purpose, the mere fact that there might be a slight infringement on the right of association does not and cannot void the power of the State to enact these reasonable regulations.

(c) The judgment of the lower court prohibits the Attorney General of the state from proceeding with or participating in any judicial proceeding against the National Association for the Advancement of Colored People, its affiliates, members, contributors, etc., under the pro-

visions of Act L. R. S. 12:401-409. This provision of the judgment in effect keeps the state from enforcing their requirements that the National Association for the Advancement of Colored People affiliates within the state file a list of their officers. Even if the *Alabama* and *Little Rock* cases, cited above, are applicable, which is strenuously denied, the decision of the lower court goes far beyond and even directly contrary thereto. In the *Alabama* case this Court specifically said that they found no objection whatsoever constitutionally or otherwise for the state requiring various organizations to furnish a list of their officers. Again, in the *Bates* case, the National Association for the Advancement of Colored People complied with Section 2, Part C of the City Ordinance which required the filing of a list of the officers, agents, servants, employees or representatives of such organization, and the salaries paid to them.

Accordingly, there is absolutely no jurisprudence whatsoever which would support directly or by implication the decision of the lower court in alleviating appellees from the necessity of filing a list of their officers.

(d) The other act passed pursuant to the police power of the State, would prevent any organization or affiliate thereof from doing business in the State if its activities were in any way controlled or directed by persons who were either Communists or members of subversive organizations. This Act, L. R. S. 14:385-388 would

require any affiliate from doing business in the State unless an affidavit was filed certifying to the fact that no officers of the national or parent organization were members of a Communist, Communist front or subversive organization.

It is difficult to see how the court below decided that the State of Louisiana, in seeking to protect its citizens, would not have the power to prevent Communist and/or subversive directors, from operating, controlling and directing subsidiary or affiliate organizations within this State.

(e) The case of *State of Louisiana, ex rel. Jack P. F. Gremillion, v. the National Association for the Advancement of Colored People* was the one removed from the State Court to the Federal Court. Although appellants herein strenuously objected to such removal, the Federal Court permitted the same despite the fact that: (1) the removal was not timely; (2) all of the defendants did not join in the removal, and (3) because the removers failed to file with their verified petition a copy of all the pleadings and orders served as required by law.

CONCLUSION.

In view of the serious constitutional and procedural errors made by the trial court below, it is seriously urged that the questions presented herein are substantial and of great importance not only to appellants but to each State in the Union and the citizens thereof. That a deci-

sion by this Court upon the timely and important questions presented herein will provide for the Bar and the public a guidepost for future action by the sovereign States and the citizens of the United States.

Respectfully submitted,

JACK P. F. GREMILLION,
Attorney General,
State of Louisiana,
Capitol,
Baton Rouge, Louisiana;

GEORGE PONDER,
First Assistant Attorney General,
State of Louisiana,
Capitol,
Baton Rouge, Louisiana;

WILLIAM P. SCHULER,
Assistant Attorney General,
Supreme Court Building,
New Orleans 12, Louisiana,
Attorneys for Appellants.

PROOF OF SERVICE.

I, William P. Schuler, one of the attorneys for appellants herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the ..... day of ....., 1960, copies of the foregoing jurisdictional statement to the Supreme Court of the United States were served on the plaintiff herein by mailing same in duly addressed envelopes with first-class postage prepaid to his attorneys of record, as follows:

To A. P. Tureaud, 821 Orleans Ave., New Orleans, La.; to Robert L. Carter, 20 West 40th St., New York, N. Y. Sent air mail.

.....

WILLIAM P. SCHULER,
Assistant Attorney General,
State of Louisiana.

APPENDIX "A".

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

NO. 1678

THE STATE OF LOUISIANA, EX REL
JACK P. F. GREMILLION, ATTORNEY
Plaintiff-Respondent

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL
Defendants-Petitioners

NO. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL
Plaintiffs

v.

WADE O. MARTIN, JR., SECRETARY OF STATE. STATE OF LOUISIANA, ET AL
Defendants

TEMPORARY INJUNCTION

These consolidated causes having been heard by this court on application of the National Association for the Advancement of Colored People and on application of the State of Louisiana for a temporary injunction, and the evidence having been adduced in affidavit and documentary form, and counsel for the National Association for the Advancement of Colored People and the Attorney General of the State of Louisiana having argued orally and submitted written briefs, and the court having considered all the evidence, the arguments and the briefs, the court is now ready to rule.

IT IS ORDERED:

1. That the application of the State of Louisiana for a temporary injunction be, and the same is hereby, DENIED.

2. That the Attorney General of the State of Louisiana, his assigns, agents or successors in office, and all persons acting in concert with him, and all other agents or agencies of the State of Louisiana, are hereby enjoined from enforcing, executing or proceeding against the National Association for the Advancement of Colored People, its affiliates, officers, members, contributors, voluntary workers, or any of them, under the provisions of Act 2 of 1924, La. R. S. of 1950, 12:401-409, and Act 260 of 1958, La. R. S. of 1950, 14:385-388, in such a manner as to compel the disclosure of the names or addresses of any

member or contributor of the National Association for the Advancement of Colored People in the State of Louisiana or to require the submission of an affidavit by any officer of any local affiliate of the National Association for the Advancement of Colored People as required by the provisions of Act 260 of 1958, La. R. S. of 1950, 14:385-388.

3. That the Attorney General of the State of Louisiana, his assigns, agents or successors in office, and all persons acting in concert with him, and all other agents or agencies of the State of Louisiana, are hereby enjoined from enforcing any penalties against the National Association for the Advancement of Colored People or any of its members, officers or contributors for failure to comply with the provisions of Act 2 of 1924, La. R. S. of 1950, 12:401-409, and Act 260 of 1958, La. R. S. of 1950, 14:385-388, as hereinbefore held invalid.

4. That the Attorney General of the State of Louisiana, his assigns, agents or successors in office, and all persons acting in concert with him, and all other agents or agencies of the State of Louisiana, are hereby enjoined from proceeding with or participating in any judicial proceeding, and particularly the judicial proceeding numbered 141252 now pending in the First Judicial District Court, Caddo Parish, Louisiana, and entitled "State Ex Rel. Jack P. F. Gremillion, Attorney General v. Shreveport Branch, National Association for the Advancement of Colored People, et al," against the National Association for the Advancement of Colored People, its affiliates, officers, members, contributors, voluntary workers, or any of them, under the provisions of Act 2 of 1924, La. R. S. 12:401-409, and Act 260 of 1958, La. R. S. 14:385-388.

5. That jurisdiction of this court is retained for the purpose of enforcing this temporary injunction and for the purpose of granting any further relief which may be warranted.

(Signed) JOHN MINOR WISDOM,
JOHN MINOR WISDOM, Circuit Judge

(Signed) HERBERT W. CHRISTENBERRY,
HERBERT W. CHRISTENBERRY,
District Judge

(Signed) J. SKELLY WRIGHT,
J. SKELLY WRIGHT, District Judge

CLERK'S OFFICE:

A TRUE COPY
Feb. 17, 1960
Chief Deputy Clerk, United States District Court
Eastern District of Louisiana
New Orleans, La.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

NO. 1678

THE STATE OF LOUISIANA, EX REL.
JACK P. F. GREMILLION, ATTORNEY
Plaintiff-Respondent,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,
Defendants-Petitioners.

NO. 8554

NEW ORLEANS BRANCH of the National Association for the Advancement of Colored People, et al.,
Plaintiffs,

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.,
Defendants.

Before WISDOM, Circuit Judge, and CHRISTENBERRY and WRIGHT, District Judges.

PER CURIAM:

In these consolidated proceedings the Court is required to determine the constitutionality of certain Louisiana statutes (Act 2 of 1924, La. R. S. of 1950, 12:401-409 and Act 260 of 1958, La. R. S. of 1950, 14:385-389) in the application of these statutes to the National Association for the Advancement of Colored People.

The association alleges that the disclosure of its membership, required under Act 2 of 1924, subjects its members to economic reprisals, loss of employment, threat of physical coercion, and other acts of public hostility, in violation of the First Amendment freedoms of speech and assembly and in violation of the due process clause of the Fourteenth Amendment. The Supreme Court decision of NAACP v. Alabama, 1958, 357 U. S. 449, controls the case now before us. In that decision, using the phrase "freedom of association" for the first time, the Supreme Court held that the NAACP was protected against forced disclosure of its membership.

Act 2 of 1924 was passed to curb the Ku Klux Klan, then engaged in Louisiana, as elsewhere, in acts of lawlessness and violence. It requires the principal officer in Louisiana "of each fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military or social organization" operating in Louisiana to file annually a list of the names and addresses of its membership residing in the state. It provides criminal penalties (mandatory jail sentences) for failure to file, as well as for holding meetings without filing.

A similar statute was held constitutional, as applied to the Klan, in Bryant v. Zimmerman, 1928, 278

U. S. 63. In that case, the Court took judicial notice that the Klan "functions largely at night, its members disguised by hoods and gowns and doing things calculated to strike terror into the minds of the people". In NAACP v. Alabama the Supreme Court distinguished Bryant v. Zimmerman on the ground that the "decision was based on the particular character of the Klan's activities, involving acts of unlawful intimidation and violence. . . ." Unlike the Ku Klux Klan, NAACP, however unpopular in Louisiana, officially and unofficially, is not shown to be an organization dedicated to "unlawful intimidation and violence".[1]

Until 1956 Act 2 of 1924 was not enforced. Few, if any, organizations complied with its provisions. After the decision of the Supreme Court in Brown v. Board of Education of Topeka, 1954, 349 U. S. 294, the then Attorney General of Louisiana brought one of the actions here in suit to enjoin the NAACP from operating in the state, for failure to comply with the statute. After the Attorney General's action and until the decision of the Supreme Court in NAACP v. Alabama, some of the affiliates of the NAACP in Louisiana filed membership lists as required by the statute. Since NAACP v. Alabama, the NAACP has not complied.

The documentary evidence submitted by the NAACP shows that some members, after exposure as members, have been subjected to certain economic reprisals. The Court's attention is called to the fact that the record shows that a large part of the NAACP membership was made up of teachers, and that Louisiana statutes deny employment to teachers[2] and others[3] who believe in

the integration of the races in public schools. After disclosure of the membership of NAACP affiliates in Louisiana, virtually **all** the teachers resigned and the general membership was reduced significantly.[4]

In NAACP v. Alabama, denying the State of Alabama access to the membership lists of the NAACP, the Supreme Court added: "We hold that the immunity from state scrutiny of membership lists which the Association claims on behalf of its members is here so related to the right of the members to pursue their lawful private interests privately and to associate freely with others in so doing as to come within the protection of the Fourteenth Amendment. And we conclude that Alabama has fallen short of showing a controlling justification for the deterrent effect on the free enjoyment of the right to associate which disclosure of membership lists is likely to have." 357 U. S. at 466. There is no difference at law between that case and this case.

There is no need to discuss Act 260 of 1958 at length. In open court the Attorney General conceded that the state was not interested in pressing the argument as to the constitutionality of the Act. He cited no authority in the brief. The state's concession is understandable. Act 260 would require, as a prerequisite for conducting activities in the state, that "every non-trading corporation, partnership or association of persons engaged in social, educational or political activities affiliated with any similar non-trading corporation, partnership or association of persons chartered, created, or operating under the laws of any other state, file an affidavit attesting to the fact

that none of the officers of such out-of-state or foreign corporation, partnership or association of persons with which it is affiliated is a member of any organization cited by the House of Congress (sic) Un-American Activities Committee or the United States Attorney General, as Communist, Communist front or subversive". The statute would require the impossible. It is clearly unconstitutional. NAACP v. Alabama, 857 U. S. 449; DeJonge v. Oregon, 299 U. S. 353; Near v. Minnesota, 283 U. S. 697.

A judgment and injunctive order will be issued in accordance with this opinion.

CLERK'S OFFICE:

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FEB. 19, 1960

Chief Deputy Clerk, United States District Court
Eastern District of Louisiana
New Orleans, La.

NO. 1678

THE STATE OF LOUISIANA, EX REL
JACK P. F. GREMILLION, ATTORNEY

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

No. 8554

NEW ORLEANS BRANCH of the National Association for the Advancement of Colored People, et al.

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

FOOTNOTES

[1] The certificate of incorporation of the NAACP provides that its "* * * principal objects * * * are voluntarily to promote equality of rights and eradicate caste or race prejudice among the citizens of the United States; to advance the interests of colored citizens; to secure for them impartial suffrage; and to increase their opportunities for securing justice in the courts, education for their

children, employment according to their ability and complete equality before the law."

[2] La. R.S. of 1950, 17:462.

[3] La. R.S. of 1950, 17:493.

[4] Since 1955, the year before the injunction proceedings were begun against the NAACP, the number of NAACP branches in Louisiana has declined from 65 to 10 and the total membership has declined from 13,000 to 6000.

CLERK'S OFFICE:

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Eastern District of Louisiana
New Orleans, La.

APPENDIX "B"

La. Revised Statutes of 1950, Title 14:385-388
(Act 260 of 1958)

385. Organizations engaged in social, educational or political activities; Communist affiliations prohibited

Non-trading corporations, partnerships and associations of persons operating in the state of Louisiana and engaged in social, educational or political activities are prohibited from being affiliated with any foreign or out of state non-trading corporations, partnerships or associations of persons, any of the officers or members of the board of directors of which are members of Communist, Communist-front or subversive organizations, as cited by the House of Congress un-American Activities Committee,

or the United States Attorney. Reports or information from the files of the Committee on un-American Activities of the U. S. House of Representatives shall constitute prima facie evidence of such membership in said organizations.

386. Affidavits

As a condition precedent to being authorized to operate or conduct any activities in the state of Louisiana, every non-trading corporation, partnership or association of persons engaged in social, educational or political activities, affiliated with any similar non-trading corporation, partnership or association of persons, chartered, created or operating under the laws of any other state, shall file with the secretary of state yearly, on or before December 31, an affidavit attesting to the fact that none of the officers of such out of state or foreign corporation, partnership or association of persons with which it is affiliated, is a member of any such organization cited by the House of Congress un-American Activities Committee, or the United States Attorney General, as Communist, Communist-front or subversive.

387. Failure to file affidavit; penalty

Failure to file the affidavit required by R.S. 14:386 shall constitute a misdemeanor, and the officers and members of such non-trading corporation, partnership or association of persons operating in this state and affiliated with such out of state or foreign organizations, failing to file such affidavit, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent juris-

diction shall be fined $100.00 and imprisoned 30 days in the parish jail.

388. False statements in affidavit as perjury

Any false statement under oath contained in the affidavit required by R.S. 14:123.

385. Organizations engaged in social, educational or political activities; Communist affiliations prohibited

Non-trading corporations, partnerships and associations of persons operating in the state of Louisiana and engaged in social, educational or political activities are prohibited from being affiliated with any foreign or out of state non-trading corporations, partnerships or associations of persons, any of the officers or members of the board of directors of which are members of Communist, Communist-front or subversive organizations, as cited by the House of Congress un-American Activities Committee, or the United States Attorney. Reports or information from the files of the Committee on un-American Activities of the U. S. House of Representatives shall constitute prima facie evidence of such membership in said organizations.

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As a condition precedent to being authorized to operate or conduct any activities in the state of Louisiana, every non-trading corporation, partnership or association of persons engaged in social, educational or political activities, affiliated with any similar non-trading corporation, partnership or association of persons, chartered, created or operating under the laws of any other state, shall file with the secretary of state yearly, on or before December

31, an affidavit attesting to the fact that none of the officers of such out of state or foreign corporation, partnership or association of persons with which it is affiliated, is a member of any such organization cited by the House of Congress un-American Activities Committee, or the United States Attorney General, as Communist, Communist-front or subversive.

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388. False statements in affidavit as perjury

Any false statement under oath contained in the affidavit required by R.S. 14:123.

[redacted]

La. Revised Statutes 12:401-409 (Act 2 of 1924)

401. Filing list of members and officers; failure to file

The principal officer or officers for this state, if there be such officer or officers, of each fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes, whether incorporated or unincorporated, operating in this state, with the exception of those hereinafter specifically excepted, shall file with the Secretary of State annually between December 16th and December 31st, inclusive, of each year, a full, complete and true list of the names and addresses of all of the members and officers of the organization living or residing in this state who are members at the time of the filing of the list, and of all those who have been members thereof at any time during the preceding period as defined in R.S. 12:407. These lists shall be certified under oath by the principal officer or officers. Any officer of such organization who fails to comply with the provisions of this Section shall be imprisoned not less than sixty days nor more than six months.

402. Filing list of members and officers of subdivision or subordinate body; failure to file

The principal officer of each subdivision or subordinate body located in this state of each fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes, whether incorporated or unincor-

porated, operating in this state, with the exception of those specifically excepted, shall file with the Secretary of State annually, between December 16th and December 31st, inclusive of each year thereafter, a full, complete and true list of the names and addresses of all of the members and the officers of such subdivision or subordinate body of such organizations who are members at the time of the filing of said list, and of those who have been members thereof at any time during the preceding period as defined in R.S. 12:407. These lists shall be certified under oath by the principal officer or officers. Any such officer of such subdivision or subordinate body of such organization who fails to comply with the provisions of this section shall be imprisoned for not less than sixty days nor more than six months.

403. Meetings prohibited unless membership list has been filed; penalty for violations

A. Every member of any fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes, whether incorporated or unincorporated, operating in this state, with the exception of those hereinafter specifically excepted, or of any subdivision or subordinate body thereof, is hereby prohibited from holding, assisting in holding, or attending any assembly, meeting, or gathering of such organization or of any subdivision or subordinate body of such organization unless a list of the officers and membership of the particular subdivision or subordinate body of such organization holding such assembly, meeting or gathering or within whose territorial jurisdiction said assembly, meeting, or gathering

is held has been filed with the Secretary of State as required by R.S. 12:402, and unless, in cases where there is a principal officer or officers for this state of such organization, there has been also filed with the Secretary of State a list as aforesaid of all of the members and officers of such organization living or residing in this state as required by R.S. 12:401.

B. If any member of such organization, or of any subdivision or subordinate body thereof, violates the provisions of this Section he shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars or imprisoned for not less than thirty days or more than six months, or both.

404. District attorney to prosecute violations

District attorneys throughout this state shall prosecute without delay any violations of this Chapter.

405. Attorney General to dissolve organization and prevent meetings

The Attorney General shall proceed by injunction or otherwise to dissolve any organization or subdivision or subordinate body violating the provisions of this Chapter and to prevent any meeting of the officers and members thereof until they have complied herewith.

406. Churches and National Guard unaffected

Nothing in this Chapter shall apply to any regularly organized churches or National Guard organizations.

407. Period for which lists are to be filed

The preceding period for each year shall end on the 15th day of December of the year in which the lists shall be filed and shall begin on the 16th day of December of the preceding year.

408. Persons who are members

Any person shall be deemed a member, in contemplation of this Chapter, of the organization described in this Chapter, or of any subdivision or subordinate body thereof, who would be considered a member in the ordinary acceptation of the word or who has taken any oath or obligation in connection with any such organization, or who has received any degree or initiation from members or officers of such organization, or who, while living or residing in the territorial jurisdiction of any such organization or any subdivision or subordinate body thereof, has attended and participated in meetings or assemblies of such organization, or paid dues or fees to such organizations.

409. Lists to be permanent records of Secretary of State

The Secretary of State shall keep the lists filed with him under the terms of this Chapter as part of the permanent public records of his office.

IN THE

Supreme Court of the United States

October Term, 1960

No. 294

THE STATE OF LOUISIANA, *ex rel.* JACK P. F. GREMILLION, Attorney General,

Appellant,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, *et al.*,

Appellee.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, *et al.*,

Appellant,

v.

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, *et al.*,

Appellee.

On Appeal from the United States District Court for the Eastern District of Louisiana, New Orleans Division

MOTION TO AFFIRM

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IN THE

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Appellee.

On Appeal from the United States District Court for the Eastern District of Louisiana, New Orleans Division

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MOTION TO AFFIRM

Appellees, pursuant to Rule 16 of the Revised Rules of the Supreme Court of the United States, move that the final judgment and decree of the District Court be affirmed on the ground that the question is so insubstantial as not to warrant further argument.

Statement.

This is a direct appeal from the final judgment and decree entered on February 27, 1960, by the specially constituted court of three judges below convened pursuant to

Title 28, United States Code, Sections 2281-2284, which declared Act 2, 1924, La. R. S. of 1950, 12:401-409, and Act 260, 1958, La. R. S. of 1950, 14:385-388, unconstitutional and enjoined their enforcement, insofar as the former legislation required the National Association for the Advancement of Colored People, its affiliates, officers, members, contributors, voluntary workers, or any of them to disclose the names and addresses of the members or contributors of the N.A.A.C.P., and insofar as the latter statute required, as a prerequisite for engaging in activities in Louisiana as an N.A.A.C.P. affiliate, that an affidavit be filed swearing that no officer of the national organization is a member of any organization declared subversive by the House Un-American Activities Committee or by the Attorney General of the United States.

In addition, the appellant, Attorney General, was enjoined from enforcing any penalties against the N.A.A.C.P., its affiliates, officers or members for failure to comply with these statutes.

These proceedings commenced as follows: On March 1, 1956, the State of Louisiana instituted proceedings in the 19th Judicial District Court of East Baton Rouge, Louisiana, seeking to enjoin the N.A.A.C.P. from doing business in Louisiana because of its failure to comply with Act 2, 1924, La. R. S. 1950, 12:401-409, which required that membership corporations file annually with the Secretary of State a list of their members and officers.

On March 28, 1956, a petition for removal was filed in the United States District Court for the Eastern District of Louisiana. Despite formal compliance with Title 28, United States Code, Sections 1441, 1445 and 1446, the state court refused to await decision by the federal court as to the latter's jurisdiction, as that statute requires. On April 24, 1956, it enjoined the N.A.A.C.P. from engaging in any activities in Louisiana until the organization complied with La. R. S. of 1950, 12:401-409.

On November 26, 1956, the Louisiana Court of Appeals for the 1st Circuit ruled that the proceedings in the state court were a nullity since the matter had been formally removed in accordance with Title 28, United States Code, Section 1446; that by virtue of that action, the state court had no power to make any adjudication until the question of the jurisdiction of the federal court had been determined. That decision is reported at 90 So. 2d 884. Subsequent to this decision, the state took no steps in the federal court to remand the cause to the state court and made no attempt to revive the state proceedings.

At the 1958 session of the General Assembly of Louisiana, La. R. S. of 1950, 14:385-389 was enacted. This statute barred organizations "engaged in social, educational or political activities" from being affiliated with out-of-state orgnizations whose officers or board members are members of the "Communist Party, communist front or subversive organizations as cited by the House of Congress Un-American Activities Committee or the United States Attorney."

As a necessary prerequisite to engaging in activities in Louisiana, any local organization, engaged in social, educational or political activities affiliated with an out-of-state organization, was required to file annually, on or before December 31st of each year, an affidavit that none of the officers of the out-of-state organization are members of any organization cited by the Un-American Activities Committee or the United States Attorney General as communist, communist-front or subversive. Failure to file the required affidavit or the filing of a false affidavit subjects the officers and members of the local organization to penalties of a $100 fine and 30 days' imprisonment.

In November, 1958, the N.A.A.C.P. brought proceedings in the court below attacking the constitutionality of La. R. S. of 1950, 14:385-389 and 12:401-409. Jurisdiction was invoked under Title 28, United States Code, Sections 1331, 1343 and 2281-2284. Temporary and permanent injunctions were sought against the enforcement of both

statutes on the ground that they denied rights of access to the courts in violation of Article III of the federal Constitution; denied the equal protection of the laws; denied freedom of speech and freedom of association and property in violation of the due process clause of the Fourteenth Amendment to the Constitution of the United States. The state filed its answer in December of 1958.

Nonetheless, while the cause was pending and before hearing, the Attorney General on October 9, 1959, brought action against the N.A.A.C.P. in the 1st Judicial District Court of Cado Parish and secured an *ex parte* temporary restraining order barring all N.A.A.C.P. activity in the state because of its failure to comply with the above-named statutes.

On November 2, 1959, these cases were consolidated in the court below. Thereafter, a hearing was held before a specially constituted court of three judges. Evidence was introduced in the form of depositions, affidavits and documents. On February 5th an opinion was handed down in which the court declared the statutes unconstitutional and enjoined their enforcement insofar as they were applied to require the disclosure of N.A.A.C.P. members and contributors or the submission of the aforementioned affidavit. On February 27, 1960, the court entered judgment in accord with this opinion. That opinion is not reported and is appended to appellants' jurisdictional statement.

Argument

The decision of the District Court is plainly correct. The constitutional validity of La. R. S. 12:401-409, insofar as it requires the disclosure of the names and addresses of the members of the N.A.A.C.P., is controlled by the decisions of this Court. *N.A.A.C.P.* v. *Alabama*, 357 U. S. 449, and *Bates* v. *Little Rock*, 361 U. S. 516. The evidence plainly shows that the statute in question was enacted to

unmask the Ku Klux Klan. Until *Brown* v. *Board of Education*, 347 U. S. 483, this statute had fallen into disuse. With that decision the law was revived in an attempt to destroy the N.A.A.C.P. as an organization and to prevent activities and agitation in favor of desegregation.

The proceedings below disclose that the state had not proceeded against any organization other than the N.A.A.C.P.; that the climate in Louisiana was anti-N.A.A.C.P. and anti-desegregation; that some N.A.A.C.P. affiliates, after the original state court decision referred to *ante*, had filed membership lists with the Secretary of State; that N.A.A.C.P. members thereby publicly disclosed had been subjected to economic reprisals; that La. R. S. of 1950, 17:462 and 17:493 bar public employment to teachers and to others who advocate integration in the public schools; that membership in the Association had declined sharply since enforcement of these statutes and that virtually all teachers had severed connections with the organization. Moreover, there was no showing of any compelling justification to warrant validation of this deterrent to freedom of association.

These evidentiary facts bring this case squarely under the doctrine enunciated in *N.A.A.C.P.* v. *Alabama*, *supra*, and *Bates* v. *Little Rock*, *supra*. As such, the question raised has been foreclosed and, it is respectfully submitted, no substantial federal question is presented in respect to this phase of the appeal.

Act 260 of 1958, La. R. S. of 1950, 14:385-388, establishes an impossible standard. It requires local persons to take an oath regarding the affiliations and associations of out-of-state individuals—in the present instance approximately 48 members of the National Board of Directors and 20 Vice-Presidents. Obviously, an official of a local affiliate of the N.A.A.C.P. in Louisiana should not be held responsible for what some 68 out-of-state persons do or do not do.

Ignorance of the subversive character of the prohibited organizations is not excused. If it appears that an officer of the national organization belonged to an organization on the proscribed list, that is sufficient to bar the local affiliate from engaging in any activities in Louisiana. The statute is clearly invalid, *Wieman* v. *Updegraff*, 344 U. S. 183, and must fall. *DeJonge* v. *Oregon*, 299 U. S. 353.

Conclusion

It is respectfully submitted, therefore, that appellant presents no substantial federal question for the decision of this Court and that the judgment and decree of the court below should be affirmed.

Respectfully submitted,

ROBERT L. CARTER,
A. P. TUREAUD,
Counsel for Appellees

September, 1960.

A

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM—1960

No. 294

LOUISIANA, EX REL. JACK P. F. GREMILLION, ATTORNEY GENERAL,
Plaintiff-Appellant,

versus

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,
Defendants-Appellees;

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,
Plaintiffs-Appellees,

versus

WADE O. MARTIN, SECRETARY OF STATE, STATE OF LOUISIANA, ET AL.,
Defendants-Appellants.

Appeal from the United States District Court for the Eastern District of Louisiana.

BRIEF FOR THE APPELLANTS.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM—1960

No. 294

LOUISIANA, EX REL. JACK P. F. GREMILLION, ATTORNEY GENERAL,
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Defendants-Appellees;

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Plaintiffs-Appellees,

versus

WADE O. MARTIN, SECRETARY OF STATE, STATE OF LOUISIANA, ET AL.,
Defendants-Appellants.

Appeal from the United States District Court for the Eastern District of Louisiana.

BRIEF FOR THE APPELLANTS.

OPINION BELOW.

The opinion of the three-judge District Court (R. pp. 176-179) is reported at 181 Fed. Supp. 37.

JURISDICTION.

The judgment of the three-judge District Court was entered on February 29, 1960 (R. pp. 180-182). Appellants filed a motion for a new trial on March 7, 1960 (R. pp. 182-186) and the said motion for new trial was denied on March 31, 1960 (R. pp. 189-190). On April 25, 1960, the appellants filed a notice of appeal to the United States Supreme Court (R. pp. 190-193), and on June 2, 1960, an extension of time was requested (R. pp. 193-194) and the said appellants were granted an extension of 45 days within which to file the jurisdictional statement (R. p. 195). The jurisdictional statement was subsequently timely filed and this Court noted probable jurisdiction on October 24, 1960 (R. p. 201). The jurisdiction of this Court rests on 28 U. S. C. 1253.

QUESTIONS PRESENTED.

1. May the state in the exercise of its police power require that organizations doing business in that state file a list of the members of that particular organization?

2. May the state in the exercise of its police power require organizations or their affiliates operating in the state to file with the state a list of officers of the parent organization, or its affiliate branches located in the state?

3. May the state in a valid exercise of its police power determine whether organizations within the state are dominated by Communist or subversive leadership?

STATUTES INVOLVED.

The following statutes of Louisiana were held to be invalid: (Louisiana Revised Statutes 12:401-409) Act 2 of 1924 and (Louisiana Revised Statutes 14:385-389) Act 260 of 1958. Said statutes are to be found in Appendix A of this brief.

STATEMENT.

The State of Louisiana through its Attorney General on March 1, 1956, filed in the 19th Judicial District Court for the Parish of East Baton Rouge a suit seeking to enjoin the National Association for the Advancement of Colored People for doing business in the state because of its failure and refusal to comply with the provisions of Louisiana Revised Statutes 12:401-409 which required that certain corporations or organizations file a list of their members and officers with the Secretary of State each year (R. pp. 1-8). A petition for removal (Civil Action No. 1678, *State of Louisiana Attorney General Jack P. F. Gremillion v. National Association for the Advancement of Colored People, et al.*) was filed in the United States District Court for the Eastern District of Louisiana, Baton Rouge Division, on March 28, 1956, seeking to remove the suit instituted in the state Court pursuant to provisions of 28 U. S. C. 1243, *et seq.* (R. pp. 10-13).

Despite the purported petition for removal, the state District Court issued an injunction restraining the National Association for the Advancement of Colored People, its affiliates and members from functioning in the state until the membership and officers list filing requirement had been complied with. On November 26, 1956,

Louisiana Court of Appeal, First Circuit, held that since a purported removal petition had been filed in a federal court the state court could not decide the validity of the purported removal proceedings and that the state court had lost jurisdiction until such time as the federal court decided whether or not it had jurisdiction to hear the case on removal (90 So. (2d) 884).

No further action was taken on this case until such time as a subsequent case (*Orleans, Branch of the NAACP, et al., v. Wade O. Martin, et al.*, Civil Action No. 8554) was instituted in the Federal District Court alleging that L. R. S. 14:385-389, as well as L. R. S. 12:401-409, were unconstitutional in that they violated the due process and equal protection clauses of the Fourteenth Amendment, Article 3, of the Federal Constitution and Amendment 1 to the United States Constitution (R. pp. 15-24).

Both of these cases were consolidated for trial and a three-judge court was ordered to hear them (R. pp. 56-59). All of the evidence in this case as per instructions of the Court was introduced in the form of documents, affidavits or depositions (R. pp. 59-175).

On February 29, 1960, the three-judge court rendered judgment declaring that said statutes were unconstitutional and enjoining enforcement by any state official of the provisions against the National Association for the Advancement of Colored People, its affiliates or members, etc. (R. pp. 180-182).

SUMMARY OF ARGUMENT.

A state in the exercise of its police power has the authority to control and regulate the operation of corporations or organizations within its boundaries. Pursuant to this power, the State of Louisiana enacted a statute requiring certain classifications of organizations and corporations to file, as a prerequisite to operation in the state, a list of its members and officers. This statute was enacted solely for the purpose of correcting and preventing in the future the evils which the Legislature of the state believed stemmed from, and were fostered by, secret membership organizations. This statute is nothing but a legislative method of controlling an existing and contemplated evil threatening the welfare of the citizens of the state and as such is outside the purview of the "Freedom of Association" as it has been interpreted by this Court.

The District Court in striking down the statutory provision of Louisiana law which required the NAACP to file a list of its officers went far beyond, and even in direct conflict with, decisions of this Court. Time and again this Court has held that such information is not privileged and does not come under the protection of Freedom of Association doctrine.

The state in the exercise of its police power may protect itself and its individual citizens from organizations dominated and or controlled by Communist and or subversive leadership. The state in order to fulfill its obligations toward its citizens has the right to require the filing of such information as will legitimately be helpful in determining whether or not an organization seeking to do business in the state is Communist dominated.

ARGUMENT.

I.

THE STATE OF LOUISIANA MAY ENACT A MEMBERSHIP REGISTRATION STATUTE, IF THE PRODUCTION OF SAID MEMBERS' NAMES IS REASONABLY NECESSARY TO ACCOMPLISH THE STATE'S OBLIGATION TO PROTECT ITS CITIZENS.

It is axiomatic in the law that the state has the power and duty to exercise its police power to protect its citizens.

> "The police power is as old as civilized governments which exercise it. The states existed before the Constitution of the United States, and they possessed the police power before the adoption of that organic document. Moreover, its has been held many times that the Constitution supposes the preexistence of the police power, and must be construed with reference to that fact.
>
> "The breadth and extent of the police power, covering the exigencies confronting the community, its adaptability, inalienability, and the number of public purposes included in its scope make it a principal pillar of government. It has been stated that the police power in effect sums up the whole power of government, and that all other powers are only incidental and ancillary to the execution of the police power; it is that full final power involved in the administration of law as the means to the attainment of practical justice. Moreover, it has been said that the very existence of government depends on it, as well as the security of the social

order, the life and health of the citizens, the enjoyment of private and social life, and the beneficial use of property." 11 *Am. Jur.* 969.

While it is admitted that a state may not under the guise of police power, unnecessarily and unreasonably deprive any person or persons of protected rights under Federal Constitution, the Court should always remember that each and every act of a state or sovereignty enacted for the general good and order will to some extent infringe upon someone's right.

> "We must be cautious about pressing the broad words of the Fourteenth Amendment to a drily logical extreme. Many laws which it would be vain to ask the court to overthrow could be shown, easily enough, to transgress a scholastic interpretation of one or another of the great guaranties of the Bill of Rights. They more or less limit the liberty of the individual, or they diminish property to a certain extent. We have few scientifically certain criteria of legislation, and as it is often difficult to make the line where what is called the police power of the states is limited by the Constitution of the United States, judges should be slow to read into the latter a nolumus mutare as against the lawmaking power." *Noble State Bank v. Haskle*, 219 U. S. 104, 116.

This Court has, time and again, when confronted with a situation where there is a possible conflict between the provisions of the First Amendment and the police power of the state or federal government, held that stat-

utes enacted in a valid exercise of police power are enforceable, even though they might infringe upon freedoms guaranteed by the First Amendment.

Waugh v. Board of Trustees, 237 U. S. 589, 35 S. Ct. 720 (1914):

> "It is said that the fraternity to which plaintiff belongs is a moral and, of itself, a disciplinary force. **But whether such membership makes against discipline was for the State of Mississippi to determine.** . . . The enactment of the statute may have been induced by the opinion that membership in the prohibited societies divided the attention of the students, and distracted from that singleness of purpose which the state desired to exist in its public educational institutions. **It is not for us to entertain conjectures in opposition to the views of the state and annul its regulations upon disputable considerations of their wisdom or necessity.** . . . It is very trite to say that **the right to pursue happiness and exercise rights and liberty** are subject, in some degree, to the limitations of the law, and the condition upon which the state of Mississippi offers the complainant free instruction in its University, that while a student there, he renounce affiliation with a society which the state considers inimical to discipline, finds no prohibition in the 14th Amendment." At 596 (Emphasis supplied.)

Cox v. New Hampshire, 312 U. S. 569, 61 S. Ct. 762 (1941):

> "Civil liberties, as guaranteed by the Constitution, imply the existence of an organized society main-

taining public order without which liberty itself would be lost in the excesses of unrestrained abuses. The authority of a municipality to impose regulations in order to assure the safety and convenience of the people in the use of public highways has never been regarded as inconsistent with civil liberties but rather as one of the means of safeguarding the good order upon which they ultimately depend." At 574.

American Communications Association v. Douds, 339 U. S. 382, 70 S. Ct. 674 (1950):

"Although the First Amendment provides that Congress shall make no law abridging the freedom of speech, press or assembly, it has long been established that those freedoms themselves are dependent upon the power of constitutional government to survive. If it is to survive it must have power to protect itself against unlawful conduct and, under some circumstances, against incitements to commit unlawful acts.

"* * * the right of the public to be protected from evils of conduct, even though First Amendment rights of persons or groups are thereby in some manner infringed, has received frequent and consistent recognition by this Court. We have noted that the blaring sound truck invades the privacy of the home and may drown out others who wish to be heard. Kovacs v. Cooper, 1949, 336 U. S. 77, 69 S. Ct. 448. The unauthorized parade through city streets by a religious or political group disrupts traffic and may prevent the discharge of the

most essential obligations of local government. Cox v. New Hampshire, 1941, 312 U. S. 569, 574, 61 S. Ct. 762, 765, 85 L. Ed. 1049, 133 A. L. R. 1396. The exercise of particular First Amendment rights may fly in the face of the public interest in the health of children, Prince v. Massachusetts, 1944, 321 U. S. 158, 64 S. Ct. 438, 88 L. Ed. 645, or of the whole community, Jacobson v. Massachusetts, 1905, 197 U. S. 11, 25 S. Ct. 358, 49 L. Ed. 643, 3 Ann. Cas. 765, and it may be offensive to the moral standards of the community, Reynolds v. United States, 1878, 98 U. S. 145, 25 L. Ed. 244; Davis v. Beason, 1890, 133 U. S. 333, 10 S. Ct. 299, 33 L. Ed. 637. And Government's obligation to provide an efficient public service, United Public Workers v. Mitchell, 1947, 330 U. S. 75, 67 S. Ct. 556, 91 L. Ed. 754, and its interest in the character of members of the bar, In re Summers, 325 U. S. 561, 65 S. Ct. 1307, 89 L. Ed. 1795 (1945), sometimes admit of limitations upon rights set out in the First Amendment. And see Giboney v. Empire Storage & Ice Co., 1949, 336 U. S. 490, 499-501, 69 S. Ct. 684, 689-690. We have never held that such freedoms are absolute. The reason is plain. As Chief Justice Hughes put it, 'Civil liberties, as guaranteed by the Constitution, imply the existence of an organized society maintaining public order without which liberty itself would be lost in the excesses of unrestrained abuses.' Cox v. New Hampshire, supra, at 574." At 398.

Hughes v. Superior Court of California, 339 U. S. 460, 70 S. Ct. 718 (1950):

"The problems of government are practical ones and may justify, if they do not require, rough accommodations,—illogical, it may be, and unscientific." Metropolis Theatre Co. v. Chicago, 228 U. S. 61, 69-70, 33 S. Ct. 441, 443, 57 L. Ed. 730. A State may "direct its law against what it deems the evil as it actually exists without covering the whole field of possible abuses, and it may do so none the less that the forbidden act does not differ in kind from those that are allowed." At 468.

Poulous v. New Hampshire, 345 U. S. 395, 73 S. Ct. 760 (1953):

"The principles of the First Amendment are not to be treated as a promise that everyone with opinions or beliefs to express may gather around him at any public place and at any time a group for discussion or instruction. It is a nonsequitur to say that First Amendment rights may not be regulated because they hold a preferred position in the hierarchy of the constitutional guarantees of the incidents of freedom. This Court has never so held and indeed has definitely indicated the contrary." At 405.

"There is no basis for saying that freedom and order are not compatible. That would be a decision of desperation. Regulation and suppression are not the same, either in purpose or result, and courts of justice can tell the difference. We must and do assume that with the determination of the Supreme Court of New Hampshire that the present ordinance entitles Jehovah's Witnesses to hold religious services in Goodwin Park at rea-

sonable hours and times, the Portsmouth Council will promptly and fairly administer their responsibility in issuing permits on request." At 408.

Uphaus v. Wyman, 360 U. S. 72, 79 S. Ct. 1040 (1959):

"Registration statutes, quo warranto proceedings as to subversive corporations, the subversive instigation of riots, and a host of other subjects, directly affecting state security furnish grist for the state's legislative mill. Moreover, the right of the state to require the production of corporate papers of a state-chartered corporation in an inquiry to determine whether corporate activity is violative of state policy stands unimpaired." At 77.

Barenblatt v. United States, 360 U. S. 109, 79 S. Ct. 1081 (1959):

"The precise constitutional issue confronting us is whether the Subcommittee's inquiry into petitioner's past or present membership in the Communist Party[25] transgressed the provisions of the First Amendment,[26] which of course reach and limit congressional investigations. Watkins, supra, 354 U. S. at page 197, 77 S. Ct. at page 1184.

"The Court's past cases establish sure guides to decision. Undeniably, the First Amendment in some circumstances protects an individual from being compelled to disclose his associational relationships. However, the protection of the First Amendment, unlike a proper claim of the privilege against self-incrimination under the Fifth Amendment, do not afford a witness the right to resist

inquiry in all circumstances. Where First Amendment rights are asserted to bar governmental interrogation resolution of the issue always involves a balancing by the courts of the competing private and public interests at stake in the particular circumstances shown. These principles were recognized in the Watkins case, where, in speaking of the First Amendment in relation to congressional inquiries, we said (354 U. S. at page 198, 77 S. Ct. at page 1185): 'It is manifest that despite the adverse effects which follow upon compelled disclosure of private matters, not all such inquiries are barred. * * * The critical element is the existence of and the weight to be ascribed to, the interest of the Congress in demanding disclosures from an unwilling witness.' See also American Communications Ass'n, C. I. O. v. Douds, 339 U. S. 382, 399-400, 70 S. Ct. 674, 684-685, 94 L. Ed. 925; United States v. Rumely, supra, 345 U. S. at pages 43-44, 73 S. Ct. at pages 544-545. More recently in National Association for Advancement of Colored People v. State of Alabama, 357 U. S. 449, 463-466, 78 S. Ct. 1163, 1172-1174, 2 L. Ed. (2d) 1488, we applied the same principles in judging state action claimed to infringe rights of association assured by the Due Process Clause of the Fourteenth Amendment, and stated that the 'subordinating interest of the State must be compelling' in order to overcome the individual constitutional rights at stake." At 126.

"Nor can we accept the further contention that this investigation should not be deemed to have been in furtherance of a legislative purpose because the true objective of the Committee and of the Congress

was purely 'exposure.' So long as Congress acts in pursuance of its constitutional power, the Judiciary lacks authority to intervene on the basis of the motives which spurred the exercise of that power." At 132.

"We conclude that the balance between the individual and the governmental interests here at stake must be struck in favor of the latter, and that therefore the provisions of the First Amendment have not been offended." At 134.

Times Film Corp. v. Chicago, 81 S. Ct. 391, 364 U. S. (1961):

"First Amendment privilege might have to give way to the necessities of public welfare. It has never been held that liberty of speech is absolute. Nor, has it been suggested that all previous restraints on speech are invalid." At 393.

* * * * * * *

"It is not for the Court to limit the State in its selection of the remedy it deems most effective to cope with such a problem, absent, of course, a showing of unreasonable strictures on individual liberty resulting from its application in particular circumstances." At 395.

It has been contended by the appellees herein that Louisiana's membership list statute deprives them of the right of association which is part of the Freedom of Assembly, guaranteed by the First Amendment to the United States Constitution. It is and will be contended by the State of Louisiana that the Registration statute does not substantially interfere with the freedom of association

and furthermore that if it should interfere with that freedom it only does so incidental to a valid exercise of the state police power.

In order to determine the conditions prevailing at the time the statute was enacted and the purposes for which it was enacted, it is necessary to turn the clock back to the early 1920's in the State of Louisiana. For the edification of the members of the Court who might not be familiar with the events in Louisiana at that time, probably the best and most concise article on the subject is one by the Governor of the State of Louisiana, Honorable John M. Parker, found in 4 *Loyola Law Journal* 100, which is reproduced verbatim herein in Appendix B.

With these conditions prevailing, a new Governor was elected and took office in 1924 and when the Legislature met, one of the first bills considered was one requiring the filing of membership lists. There can be no doubt that while the Ku Klux Klan was the primary target of the bill, it was the intention of the Legislature not only to eliminate an evil which existed but further to introduce a bill which would protect the state and its citizens in the future from any organization operating in secrecy. It is clear beyond question that the state had two purposes in mind when adopting Act 2 of 1924.

1. The Legislature intended to curtail the activities of the Ku Klux Klan by submitting to public light a list of the members of said organization.
2. The Legislature intended that all organizations falling within the class set forth by it should in the future file membership lists so that such

organization could not, at a later date, under cover of secrecy, develop into one that might be inimical to the welfare of the State of Louisiana and its citizens.

Only one time has a statute of similar import been tested in the United States Supreme Court, *New York, ex rel. Bryant, v. Zimmerman*, 278 U. S. 63, 73 L. Ed. 184. The petitioner in that case was convicted under a Ku Klux Klan statute very similar to the one at issue, and one of the points he specifically urged upon appeal was that the membership filing provision of the New York Law deprived him of exercising his right of membership in the association. The Court placed this contention to rest in no uncertain terms.

"The relator's contention was that under the due process clause is that the statute deprives them of liberty and that it prevents him from exercising his right of membership in the association. But his liberty in this regard like most other personal rights must yield to the rightful exertion of the police power. There can be no doubt that under that power the state may prescribe and apply to associations having oath bound membership any reasonable regulations calculating to confine their purposes and activities within limits which are consistent with the rights of others and the public welfare. Requirement in S53 that each association shall file with the Secretary of State a sworn copy of its constitution, oath, membership, etc. with a list of members and officers, is such a regulation. It proceeds on the two-fold theory that the state with-

in whose territory under whose protection the association exists is entitled to be informed of its nature and purpose, of whom it is composed and by whom its activities are conducted, and that requiring this information to be supplied for the public files will operate as the effective or substantial deterrent from the violations of public and private right to which the association might be tempted if such disclosure were not required. The requirement is not arbitrary or oppressive but reasonable and likely to be of real effect. Of course, power to require the disclosure includes authority to prevent individual members of an association which has failed to comply from attending meetings or retaining membership with the knowledge of its default. We conclude that due process clauses are not violated." 278 U. S. at 72.

The reasoning used in the *Zimmerman* case has been followed by the United States Court of Appeals in *Communist Party of the U. S. v. Subversive Act Con. Bd.*, 223 F. (2d) 531.

"The Party argues that the registration provisions of the statute before us do not call for the production of books or records but require the preparation and submission of a registration statement. That statement must contain (Section 7(d)) the name and address of the organization, the names and last known addresses of the officers and members, an accounting of moneys received and expended, and in the cases of officers and members who are known by more than one name, such other names. The Party says that such a statement is protected by

the privilege even though books and records are not. But membership lists and accountings for money furnished by an organization are reproductions of or extracts from organization records. And if the records can be compelled oral testimony 'auxiliary to the production' can be compelled. Whether such records are kept formally or informally is immaterial. No additional explanatory testimony is required by this statute.

"Moreover Congress could require Communist-action organizations to keep membership lists and accounting records. The opinion in People of State of New York ex rel Bryant v. Zimmerman establishes that proposition. The provisions of this statute in effect make such a requirement. The Government requires many organizations to keep records. For example, it required all business houses to keep price records when prices were under Government control. To say that a Communist-action organization, as that term is defined in this statute, could not be required to keep records of its membership and its moneys is wholly untenable in our view. If these are matters of which organization records could be required, they fall squarely within the rule in the White case, supra. As to a registration statement we think the White case applies." At 547.

"Preliminarily we note that the requirement for registration in and of itself presents no difficulty. It is no more than we customarily require of many organizations; such as lobbyists and foreign agents, and even of doctors, lawyers, restaurants and bar-

bers, who are required to register and obtain licenses. The requirement for an accounting of moneys received and expended is no more than is required of any political party, and since petitioner claims to be a political party we see no invalidity in the application to it of such a requirement. The requirement that a political organization list its members is similar to the customary requirement in the states that persons participating in the activities of a political party, such as primaries, conventions, etc., register publicly as members." At 554.

Apparently, it was felt by the Legislature, and not without just cause, that secrecy leads to anarchy. This belief does not appear to be one solely of the Legislature of Louisiana but has been expressed by other parties, at less trying times and certainly with less justification.

"I agree that what I see as symbols of the future are not characteristic of the prevailing thought in many quarters today. Some there are who would have associations treated as private preserves, immune from scrutiny and supervision. They want their activities, finances, systems of elections and contracts hidden behind the curtain. To them I would repeat the maxim of the greatest historian of liberty, Lord Acton: 'Everything secret degenerates, nothing is safe that does not show how it can bear discussion and publicity.'" Charles E. Wyzanksy, Jr., *The Open Window and Open Door*, 35 *Cal. L. R.* 336, 350.

It should be noted before passing on, that the State of Louisiana is very liberal with regard to nonprofit corporations and other organizations of a similar nature which desire to operate within the state. There are no provisions whatsoever which prohibit the formation of such organizations because of the type of dogma they seek to espouse, membership they seek to invite into their organization or endeavors they desire to undertake. Their right to function is in no way discretionary with the state and their actions may not be prohibited because the state feels that those actions are not of the nature or type that the general public approves, or what is generally state policy, such as may be found in other states. This statute certainly does not smack of the type of conduct that is judicially approved in the state of New York.

Association for the Preservation of Freedom of Choice, Inc., 188 N. Y. S. (2d) 885 (1959):

> "The argument of the memorandum mistakes the issue. In no way was freedom of association or freedom of expression involved in the denial by this Court of the application for approval of the certificate of incorporation. All that was denied to this group was the privilege of incorporation as a membership corporation. Certainly, the sponsors of the proposed membership corporation, are completely free to associate for the purposes they spelled out in the proposed certificate. They are also free to speak out in support of racial and religious discrimination. But they may not compel the State to grant them, for these purposes, the benefits and privileges of incorporation as a membership corporation. Mr. Justice Levy in re Gen-

eral Von Stuben Bund Inc., 159 misc. 231, 287 N. Y. S. 527, 530—a decision which counsel for applicant acknowledges 'is properly based' stated that 'where, however, persons so banded together desire to secure the privilege of corporation, another situation is presented.' Mr. Justice Levy pointed out that in examining an application for a corporation as a membership corporation 'it is the duty of the justice to act more than as a ministerial officer in meeting the requirements of the statute' and he emphasized that though the corporation under the State law as a 'privilege' be denied, such a denial would in no way prevent a number of individuals from carrying out whatever lawful propaganda activities they may wish to engage in since no legal license is required for such purpose." At 887:

"This Court has searched diligently and has found no precedent to support the implied claim of applicants that the right to incorporate is anything other than a privilege. The very framework of membership corporation law, which requires the approval of a justice of the Supreme Court of the Judicial District in which the office of the corporation is to be located, makes it clear that the legislature intended to grant to the Court discretion as to whether a corporation should be granted. As was pointed out by Mr. Justice Walsh in the application of Stillwell Political Club, Inc., Sup., 109 N. Y. S. (2d) 331, at page 333, 'before approving a proposed membership corporation, it is the duty of the Court to be satisfied that the substance as well as the form does not violate the wholesome

public policy and does not permit irresponsible or unequipped citizens to operate under a corporate charter which has been approved by the Court and will be accepted by the Secretary of State.' At 887.

"Our system of government can only be maintained by the free and untrammeled collision of ideas, but when those ideas run counter to the mores or policies or laws, no group should be permitted to organize in corporate form with the sanction of the state to espouse such ideas. It could hardly be contended, for instance, that on the theory that otherwise they would be denied individual freedom of choice or freedom of expression, the incorporators here could compel the Court to approve the organization of a corporation which sought as its purpose to propagandize for the repeal of laws against bigamy. Yet, if the proponents contention here is correct, that despite the public policy of our State and nation to the contrary of what they seek to espouse, this Court has no choice and must grant them a charter, it would have no choice in a bigamy case either. Such proponents would have a perfect right as individuals to adjudicate for the abolition or repeal of the laws against bigamy, but they could not, as a matter of right, demand incorporation for that purpose. The applicants here are in no better position." At 889.

Consistently the NAACP has placed utmost reliance upon two cases. *NAACP v. Alabama*, 357 U. S. 449, 78 S. Ct. 1163, and *Bates v. City of Little Rock*, 361 U. S. 516, 80 S. Ct. 412. It has attempted to forge these two cases into a Procrustean couch in which to "fit" all stat-

es which it feels might in the slightest way impair its owth, function, or operation.

The *Alabama* case hinged upon the question as to ether or not the state had shown "justification" in taining the membership lists. The Court only reversed e contempt conviction upon finding that there was no cessity for the production of the lists.

"Whether there was 'justification' in this instance turns solely on the substantiality of Alabama's interest in obtaining the membership lists. During the course of a hearing before the Alabama Circuit Court on a motion of petitioner to set aside the production order, the State Attorney General presented at length, under examination by petitioner, the State's reason for requesting the membership lists. The exclusive purpose was to determine whether petitioner was conducting intrastate business in violation of the Alabama foreign corporation registration statute, and the membership lists were expected to help resolve this question. The issues in the litigation commenced by Alabama by its bill in equity were whether the character of petitioner and its activities in Alabama had been such as to make petitioner subject to the registration statute, and whether the extent of petitioner's activities without qualifying suggested its permanent ouster from the State. Without intimating the slightest view upon the merits of these issues, we are unable to perceive that the disclosure of the names of petitioner's rank-and-file members has a substantial bearing on either of them." At 464.

Again in the *Alabama* case the Court found undisputed evidence of economic reprisals and physical coercion.

> "We think that the production order, in the respects here drawn in question, must be regarded as entailing the likelihood of a substantial restraint upon the exercise by petitioner's members of their right to freedom of association. Petitioner has made an uncontroverted showing that on past occasions revelation of the identity of its rank-and-file members has exposed these members to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility." At 462.

In the case at bar there was an attempted showing of reprisals introduced by affidavits submitted by appellees. If unopposed, they might have made a strong showing, but under the scrutiny of oral depositions and traversed by counter-affidavits, they dwindle to insignificant proportions.

Arthur Chapital, President of the New Orleans Branch, alleged that he received threatening letters and phone calls in 1956. Conceding, for the purpose of argument, that the letters and phone calls (letter not introduced) were made, these are no more than any person in the public eye receives, and furthermore, they were received according to Mr. Chapital's own statement, prior to the time the membership list for the Orleans Parish Chapter was filed.

Affiant further stated that the filing of the membership list caused the membership to dwindle. Other than his statement, the only evidence in the record is the two lists filed in the consecutive years, which show conclusively that the membership doubled in the year after the first list was filed (R. pp. 125-127).

Mrs. Doretha Combre, President of the NAACP in the State of Louisiana, also testified that she received threatening phone calls and letters (again, none of the letters introduced in evidence); she complained that the injunction issued by the Court thwarted the growth of her organization. Yet it is interesting to note by the copies of the lists introduced that at her home branch, the Lake Charles Branch, more than doubled its membership, after filing its list, despite alleged nameless, faceless people, who feared reprisals, both economic and physical (R. p. 106).

Another prime example of a person who talked intimidations and reprisals but was a living example of a person who had received treatment far above and beyond that to which he was entitled is R. L. Williams. He had been president of the Shreveport Chapter of the NAACP on and off over a period of years. He was well known as a leader in the NAACP movement in Shreveport and the obvious target of economic reprisals and intimidation. In his affidavit he stated that since the injunction issued by the State, his chapter was unable to recruit many new members; that prospective members refused to join because of fear (R. pp. 121, 122).

Depositions taken of the affiant under oath showed a picture far different than that painted in the affidavit.

He was employed at a salary of about $50.00 per week but in order to supplement that he had applied for, and was receiving from, the coffers of the State an old-age pension, although not entitled thereto. In addition, he did not burden himself with medical bills when members of his family became ill; he had them treated at the expense of the taxpayer at a charity hospital.

Although he complained bitterly of fear on behalf of other nameless people, he himself stated that his membership in the NAACP has never had an adverse effect on him and further that he did not know why the membership of the organization dropped (R. pp. 172-175).

The next affidavit was furnished by one Rev. Lee Andrew Durham, President of the Red River Branch of the NAACP. In his affidavit he mentioned that he knew personally of many persons who were intimidated and threatened with economic reprisal because of their membership or contemplated membership in the NAACP. He further stated that some people actually lost their jobs as the result of membership therein. He stated that many persons quit or refused to join the NAACP solely because they were afraid of this intimidation (R. p. 123).

It is interesting to note that in this affidavit, although he says he personally knew the people who suffered these intimidations and firings, he failed to give one name of any such person, therefore, making it totally impossible for the state to introduce any evidence to counteract this totally hearsay evidence of nameless and faceless accusers.

The depositions taken by the State of this affiant again painted a different picture of the situation. Affiant testified that the main reason for the drop in membership in the NAACP branch, of which he is president, was the injunction granted to the State rather than the intimidation that he set forth in his affidavit. Again, in his depositions, he was unable to give one concrete example of any person who was discriminated against economically or otherwise. As president of the branch he was a likely target for any action that might have been taken against any member of the NAACP, therefore it was interesting to see what facts were revealed in his depositions. He revealed that he had been a member of his NAACP branch ever since it was organized and that no person had ever given him any trouble because of his membership (R. pp. 161-165). The following is a quote from his testimony taken at the depositions:

"Q. Now, have you yourself personally ever been intimidated or harassed because of your membership in the NAACP?

A. Not personally." (R. p. 163.)

"Q. And it is your testimony that anyone has ever done anything to you because you are a member of the NAACP?

A. Not as I know of." (R. p. 163.)

"Q. And to your wife either?"

A. No." (R. p. 163.)

In addition to the witness stating that he had never suffered any reprisals whatsoever because of membership in the NAACP he further testified that both he and his wife received from the State of Louisiana the old-age pen-

sion and that neither he nor his wife had ever been threatened with being taken off those rolls because of membership in the NAACP.

The State, rather than relying upon the weakness of the affidavits given by the above parties, affirmatively proved by affidavits of competent, trustworthy parish officials that even though they were well aware of what went on in their respective communities they had no knowledge or had never heard of the alleged economic reprisals and harassment of these nameless, unknown persons within their parishes (R. pp. 142-148). What better or more direct proof could the State have made to show the utter and complete falseness of these affidavits?

Of all the complaints given, only two mentioned specific parties who felt that they had been discriminated against because of their membership in the NAACP. We shall deal with these two complaints. The first affidavit was one made by Frank Davis, a resident of Red River Parish, who testified that during the year of 1958 he operated a cafe in the town of Coushatta, Louisiana (R. pp. 114-115). He stated that because of his membership in the NAACP the rent collector and the mayor of the Town of Coushatta advised him that it would be necessary to close his business at 8:00 each night. He further stated that as a result of his membership in the NAACP his landlord raised his rent $10.00 per month.

In the depositions given by this witness, he altered the facts substantially (R. pp. 153-161.) First of all.

he denied in his depositions the fact that he stated that the Mayor of Coushatta came with the rent collector to see him.

"Q. Now, you say that your landlord or rent collector came to see you, is that correct?
A. Correct." (R. p. 156.)

"Q. Did someone else come with him?
A. No, sir, he didn't." (R. p. 156.)

"Q. Didn't you allege in your affidavit that the Mayor of Coushatta was also present at that time?
A. Didn't." (R. p. 156.)

"Q. You did not?
A. No sir."

Also the witness in his affidavit testified that because of his membership in the NAACP the rent was raised the sum of $10.00 a month. His answers to questions asked under oath at the depositions were completely different.

"Q. Alright, what was the rent you were paying there?
A. $25.00 a month." (R. p. 158.)

"Q. How much rent were you paying when you finally left there?
A. $25.00.

Q. You were never raised?
A. Never raised, no sir." (R. p. 158.)

The witness also stated in his affidavit that one of his main causes of trouble was his father's partici-

pation in the NAACP and his father's attempt to get new members for the NAACP. However, he shows definitely that his father has been drawing the old-age pension from the State of Louisiana and was never threatened in any way with being taken off the rolls. He further testified that his father, at all times, whenever he was ill, went to a State hospital and was treated freely at State expense.

Further, with regard to his statements that his business suffered great damage, he was unable, in any way, to substantiate this other than by his bold statement. The witness was unable to testify as to whether or not there had ever been income tax forms filed with regard to his income from the business, making it impossible for the State to check the authenticity of his statements. Further, the witness testified that he did not file a State sales tax report and a check thereon proved him correct, so it was impossible to verify or disprove his statement.

In order to show the true state of affairs, the State introduced the affidavit of one Lynn Bailey, the rent collector who was supposed to have raised his rent and have made him close early in the evening. This affidavit, without hesitation, completely denied all of the allegations made by Davis (R. p. 147). And, in addition thereto, the affidavits of many public officials in that parish definitely showed that there was no discrimination or intimidation against any person who was a member of the NAACP in that parish.

The other affidavit was one made by Joseph N. Blankenship, a resident of the Parish of Bienville, who

stated "that he knows of instances in which persons have been intimidated and in which economic reprisals have been taken against them because of their membership and their connection with the National Association for the Advancement of Colored People" (R. p. 103). While the affiant did not give any names of the many persons who he alleged had suffered economic reprisals in his affidavit, this was brought out more fully upon the depositions taken of him. Despite his allegations of multiple reprisals, it all boiled down to the fact that he only knew of one person who he believed had been discriminated against (R. p. 166).

"Q. Do you know of any person who ever lost their job because he was a member of the NAACP?
A. Only one person, John W. Overals. He lost his job but he would not join anymore for the reason he said he might wouldn't be able to continue his job." (R. p. 169.)

"Q. What was his job?
A. I think he was working at the bank, or something of the kind."

The witness further testified that though he believed Mr. Overals had been fired from the bank because of his affiliation with the NAACP, he went to work immediately thereafter for the State of Louisiana at one of its educational institutions.

In order to cast a true light on this statement, the State obtained from the director of the bank an affidavit as to the reasons why Mr. Overals was fired. This affidavit filed in evidence shows the following (R. p. 145):

1. That the bank did not know of Mr. Overals connection with the NAACP.
2. That Mr. Overals had been fired from the bank for inefficiency due to his lack of satisfaction with the job.

The State further introduced an affidavit of the District Attorney of the parish wherein the bank was located which conclusively showed that he had no knowledge of any discrimination against Mr. Overals or any other citizen of this district because of membership in the NAACP.

Surely a careful study of the evidence introduced into the record will show that the State proved affirmatively and beyond a reasonable doubt that membership in the NAACP had not resulted in economic reprisals or physical abuse in this State.

Additionally, in the *Alabama* case, the Court pointed out most emphatically that the NAACP willingly complied with all requests except that of the membership list.

> "It is important to bear in mind that petitioner asserts no right to absolute immunity from state investigation, and no right to disregard Alabama's laws. As shown by its substantial compliance with the production order, petitioner does not deny Alabama's right to obtain from it such information as the State desires concerning the purposes of the Association and its activities within the State. Petitioner has not objected to divulging the identity

of its members who are employed or hold official positions with it." At 463.

In the *Bates v. City of Little Rock* case, 361 U. S. 516, the Court again determined that there was no relationship between the tax and the production of the membership list, and therefore no justification for production.

"Decision in this case must finally turn, therefore, on whether the cities as instrumentalities of the State have demonstrated so cogent an interest in obtaining and making public the membership lists of these organizations as to justify the substantial abridgment of associational freedom which such disclosures will effect. Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling. N.A.A.C.P. v. State of Alabama, 357 U. S. 449, 78 S. Ct. 1163, 2 L. Ed. 1488. See also Jacobson v. Commonwealth of Massachusetts, 197 U. S. 11, 25 S. Ct. 358, 49 L. Ed. 643; Schneider v. State of New Jersey, 308 U. S. 147, 60 S. Ct. 146, 84 L. Ed. 155; Cox v. State of New Hampshire, 312 U. S. 569, 574, 61 S. Ct. 762, 765, 85 L. Ed. 1049; Murdock v. Commonwealth of Pennsylvania, 319 L. Ed. 1292; Prince v. Commonwealth of Massachusetts, 321 U. S. 158, 64 S. Ct. 438, 88 L. Ed. 645; Kovacs v. Cooper, 336 U. S. 77, 69 S. Ct. 448, 93 L. Ed. 513." At 524.

"When it is shown that state action threatens significantly to impinge upon constitutionality protected freedom it becomes the duty of this Court to determine whether the action bears a reasonable

relationship to the achievement of the governmental purpose asserted as its justification.

"In this record we can find no relevant correlation between the power of the municipalities to impose occupation license taxes and the compulsory disclosure and publication of the membership lists of the local branches of the National Association for the Advancement of Colored People. The occupation license tax ordinances of the municipalities are squarely aimed at reaching all the commercial, professional, and business occupations within the communities. The taxes are not, and as a matter of state law cannot be, based on earnings or income, but upon the nature of the occupation or enterprise conducted." At 525.

"'In sum, there is a complete failure in this record to show (1) that the organizations were engaged in any occupation for which a license would be required, even if the occupation were conducted for a profit; (2) that the cities have ever asserted a claim against the organizations for payment of an occupation license tax; (3) that the organizations have ever asserted exemption from a tax imposed by the municipalities, either because of their alleged nonprofit character or for any other reason.

"We conclude that the municipalities have failed to demonstrate a controlling justification for the deterrence of free association which compulsory disclosure of the membership lists would cause. The petitioners cannot be punished for refusing to produce information which the municipalities could not

constitutionally require. The judgments cannot stand." At 527.

Despite the clear and unambiguous language of these two cases, the Court below apparently felt that the only question was whether or not the state law impinged on the freedom of association, rather than whether the state had justification for the passage of the statute, and if the production of a membership list was related to the exercise of the police power.

If any doubt existed heretofore, it was certainly set at rest by the recent case of *Shelton v. Tucker*, 81 S. Ct. 247, — U. S. — (1960). In this case the Court itself was divided five to four with regard to the constitutionality of an Arkansas statute. However, with regard to the interpretation of the *Alabama* and *Bates* cases, all nine members of the Court agreed unanimously with the interpretation given those two cases by the appellants herein.

> "This controversy is thus not of a pattern with such cases as N.A.A.C.P. v. Alabama, 357 U. S. 449, 78 S. Ct. 1163, 2 L. Ed. (2d) 1488, and Bates v. Little Rock, 361 U. S. 516, 80 S. Ct. 412, 4 L. Ed. (2d) 480. In those cases the Court held that there was no substantially relevant correlation between the governmental interest asserted and the state's effort to compel disclosure of the membership lists involved. Here, by contrast, there can be no question of the relevance of a state's inquiry into the fitness and competence of its teachers." At 250.

"As the Court recognizes, this is not a case where, as in N.A.A.C.P. v. Alabama, 357 U. S. 449, 78 S. Ct. 1163, 2 L. Ed. (2d) 1488, and Bates v. Little Rock, 361 U. S. 516, 80 S. Ct. 412, 4 L. Ed. (2d) 480, a State, asserting the power to compel disclosure of organizational affiliations, can show no rational relation between disclosure and a governmental interest justifying it. Those cases are relevant here only because of their recognition that an interest in privacy, in nondisclosure, may under appropriate circumstances claim constitutional protection. The question here is whether that interest is overborne by a countervailing public interest. To this concrete, limited question—whether the State's interest in knowing the nature of the organizational activities of teachers employed by it or by institutions which it supports, as a basis for appraising the fitness of those teachers for the positions which they hold, outweighs the interest recognized in N.A.A.C.P. and Bates—those earlier decisions themselves give no answer." At 253 (dissenting opinion).

"Furthermore, I take the Court to acknowledge that, agreeably to our previous decisions, the State may enquire into associations to the extent that the resulting information may be in aid of that legitimate purpose. These cases therefore do not present a situation such as we had in N.A.A.C.P. v. Alabama, 357 U. S. 449, 78 S. Ct. 1163, 2 L. Ed. (2d) 1488, and Bates v. Little Rock, 361 U. S. 516, 80 S. Ct. 412, 4 L. Ed. (2d) 480, where the required disclosure bears no substantial relevance

to a legitimate state interest." At 257 (dissenting opinion).

The State believes that it has shown beyond a reasonable doubt that there is a reasonable correlation between the production of the membership lists and the health, safety and welfare of its citizens, whom it has a duty and obligation to protect.

II.

IT IS A VALID EXERCISE OF THE POLICE POWER FOR THE STATE TO REQUIRE CORPORATIONS AND OR ASSOCIATIONS OPERATING WITHIN THE STATE TO FURNISH THE STATE WITH A LIST OF THEIR OFFICERS.

Section 4 of the judgment of the District Court prohibits the Attorney General of the State or any other State agent or agencies from proceeding with or participating in any judicial proceeding against the NAACP, its affiliates, members, contributors, or etc., under the provisions of Act 2 of 1924, L. R. S. 12:401-409. This provision of the judgment would, in effect, and does, keep the State from enforcing the requirement that the NAACP or its affiliates within the State provide a list of their officers. This judgment of the District Court goes far beyond, and as a matter of fact is in direct conflict with, the decisions they cite as sustaining it.

In the case of *N.A.A.C.P. v. Alabama*, 357 U. S. 449, the Court stated:

"As matters stand in the state court, petitioner (1) has admitted its presence and conduct of activities

in Alabama since 1918; (2) has offered to comply in all respects with the state qualification statute, although preserving its contention that the statute does not apply to it; and (3) has apparently complied satisfactorily with the production order, except for the membership lists, by furnishing the Attorney General with varied business records, its charter and statement of purposes, the names of all of its directors and officers, and with the total number of its Alabama members and the amount of their dues. These last items would not on this record appear subject to constitutional challenge and have been furnished, but whatever interest the State may have in obtaining names of ordinary members has not been shown to be sufficient to overcome petitioner's constitutional objections to the production order." At 464.

This Court specifically said it found no objection whatsoever to the furnishing of a list of officers of the association.

Again in the case of *Bates v. Little Rock*, 361 U. S. 516, the NAACP complied with Section 2, Part C, of the city ordinance which required the filing of a list of "the officers, agents, servants, employees, or representatives of the organization and the salaries paid them." (See footnote No. 4 of opinion.)

Consequently, the decision of the District Court is without merit or support in law and, as such, should be reversed.

III.

THAT THE STATE, IN ORDER TO PROTECT ITSELF AND ITS CITIZENS, MAY INQUIRE AS TO THE POSSIBILITY OF AN ORGANIZATION BEING CONTROLLED BY COMMUNIST AND OR SUBVERSIVE OFFICERS.

Counsel for plaintiffs admit that there is no attack made on Act 260 of 1958 (R. S. 14:385-388) on the theory that the Federal Government has pre-empted the entire field of subversive activities.

This Act in no way restricts any activities of the parent organization, the National Association for the Advancement of Colored People, as a New York Corporation. It does, however, prevent any organization's affiliate in the State of Louisiana from doing business therein without supplying an affidavit (as a condition precedent to the conducting of any activities) to the effect that the National or parent organization does not have any officers who are members of any Communist organization cited by the House of Congress Un-American Activities Committee or cited by the United States Attorney General as a Communist, Communist front, or subversive organization.

The public policy of the State of Louisiana is in line with the Federal policy and is set forth in Louisiana Revised Statutes 14:358, *et seq.*

There is a clear and present danger of this substantive evil which has been recognized by the Louisiana Legislature, by the Congress of the United States Government, and by the United States Supreme Court.

Your Honors have not only the right, but the duty, to take judicial notice of the machinations and infiltrations by Communists into perfectly legitimate organizations for the purpose of dominating and controlling the same and fostering and fomenting revolt and unrest among our citizens.

If these plaintiffs admit that any of the officers of the National Association for the Advancement of Colored People are members of any such Communistic or Communistic-front organizations, certainly, we believe, the State of Louisiana has a right in the protection of its internal security, as outlined in its declaration of public policy, to prevent any of its citizens from becoming involved directly or indirectly in fostering the ideology of such Communist or Communistic groups.

It is a matter of common knowledge that the State of Louisiana will be a prime target in the event of war by Communists and could be wide open to sabotage, terrorism and treachery.

As Your Honors well know, our most valuable freedoms, such as freedom of speech and freedom of association, must yield when there is a present, apparent and substantial evil existing which can only be curbed by reasonable restriction of such freedoms.

It is not an undue burden for any affiliate of a national organization to make an affidavit that the parent organization does not have as one of its officers persons who are members of organizations which seek to undermine the governments of our State and of the United States upon which our freedom depends.

Both State and Federal governments have restricted freedoms of our citizens for reasons of health, such as quarantine laws, against communicable diseases, such as leprosy; for reasons of morality, such as the Mann Act, preventing the transportation of women across state lines for immoral purposes; for reasons of commerce as in the Taft-Hartley Act; and state laws relative to an habitual association with prostitutes, and for reasons of general peace and order, such as holding of unlawful assemblies.

Certainly, there can be no logical reason why the security of the entire State and Nation can not be a motivating cause for the restriction of such freedoms.

CONCLUSION.

For the reasons stated it is respectfully submitted that the judgment of the Court below should be reversed.

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Attorney General for the
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Counsel for Appellants;

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WILLIAM P. SCHULER,
Assistant Attorney General.

CERTIFICATE.

I, William P. Schuler, a member of the bar of the Supreme Court of the United States, do hereby certify that copies of the foregoing brief for appellants were served upon the appellees through their counsel of record, herein below named, by placing the same in the United States mail, addressed to them at their offices with sufficient postage thereto annexed:

Mr. A. P. Tureaud, 1821 Orleans Avenue, New Orleans, Louisiana; Mr. Robert L. Carter, 20 West 40th Street, New York 18, New York, via air mail, and Mr. Thurgood Marshall, 10 Columbus Circle, New York, New York, via air mail.

WILLIAM P. SCHULER.

APPENDIX A.

La. Revised Statutes 12:401-409 (Act 2 of 1924)

401. Filing list of members and officers; failure to file

The principal officer or officers for this state, if there be such officer or officers, of each fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes, whether incorporated or unincorporated, operating in this state, with the exception of those hereinafter specifically excepted, shall file with the Secretary of State annually between December 16th and December 31st, inclusive, of each year, a full, complete and true list of the names and addresses of all of the members and officers of the organization living or residing in this state who are members at the time of the filing of the list, and of all those who have been members thereof at any time during the preceding period as defined in R.S. 12:407. These lists shall be certified under oath by the principal officer or officers. Any officer of such organization who fails to comply with the provisions of this Section shall be imprisoned not less than sixty days nor more than six months.

402. Filing list of members and officers of subdivision or subordinate body; failure to file

The principal officer of each subdivision or subordinate body located in this state of each fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes, whether incorporated or unincorporated, operating in this state, with the exception of those

specifically excepted, shall file with the Secretary of State annually, between December 16th and December 31st, inclusive, of each year thereafter, a full, complete and true list of the names and addresses of all of the members and the officers of such subdivision or subordinate body of such organizations who are members at the time of the filing of said list, and of those who have been members thereof at any time during the preceding period as defined in R.S. 12:407. These lists shall be certified under oath by the principal officer or officers. Any such officer of such subdivision or subordinate body of such organization who fails to comply with the provisions of this section shall be imprisoned for not less than sixty days nor more than six months.

403. Meetings prohibited unless membership list has been filed; penalty for violations

A. Every member of any fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes, whether incorporated or unincorporated, operating in this state, with the exception of those hereinafter specifically excepted, or of any subdivision or subordinate body thereof, is hereby prohibited from holding, assisting in holding, or attending any assembly, meeting, or gathering of such organization or of any subdivision or subordinate body of such organization unless a list of the officers and membership of the particular subdivision or subordinate body of such organization holding such assembly, meeting or gathering or within whose territorial jurisdiction said assembly, meeting, or gathering is held has been filed with the Secretary of State as required by R.S. 12:402, and unless, in cases where there

is a principal officer or officers for this state of such organization, there has been also filed with the Secretary of State a list as aforesaid of all of the members and officers of such organization living or residing in this state as required by R.S. 12:401.

B. If any member of such organization, or of any subdivision or subordinate body thereof, violates the provisions of this Section he shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars or imprisoned for not less than thirty days or more than six months, or both.

404. District attorney to prosecute violations

District attorneys throughout this state shall prosecute without delay any violations of this Chapter.

405. Attorney General to dissolve organization and prevent meetings

The Attorney General shall proceed by injunction or otherwise to dissolve any organization or subdivision or subordinate body violating the provisions of this Chapter and to prevent any meeting of the officers and members thereof until they have complied herewith.

406. Churches and National Guard unaffected

Nothing in this Chapter shall apply to any regularly organized churches or National Guard organizations.

407. Period for which lists are to be filed

The preceding period for each year shall end on the 15th day of December of the year in which the lists

shall be filed and shall begin on the 16th day of December of the preceding year.

408. Persons who are members

Any person shall be deemed a member, in contemplation of this Chapter, of the organization described in this Chapter, or of any subdivision or subordinate body thereof, who would be considered a member in the ordinary acceptation of the word or who has taken any oath or obligation in connection with any such organization, or who has received any degree or initiation from members or officers of such organization, or who, while living or residing in the territorial jurisdiction of any such organization or any subdivision or subordinate body thereof, has attended and participated in meetings or assemblies of such organization, or paid dues or fees to such organizations.

409. Lists to be permanent records of Secretary of State

The Secretary of State shall keep the lists filed with him under the terms of this Chapter as part of the permanent public records of his office.

La. Revised Statutes of 1950, Title 14:385-388
(Act 260 of 1958)

385. Organizations engaged in social, educational or political activities; Communist affiliations prohibited

Non-trading corporations, partnerships and associations of persons operating in the state of Louisiana and engaged in social, educational or political activities are prohibited from being affiliated with any foreign or out of state non-trading corporations, partnerships or asso-

ciations of persons, any of the officers or members of the board of directors of which are members of Communist, Communist-front or subversive organizations, as cited by the House of Congress un-American Activities Committee, or the United States attorney. Reports or information from the files of the Committee on un-American Activities of the U. S. House of Representatives shall constitute prima facie evidence of such membership in said organizations.

386. Affidavits

As a condition precedent to being authorized to operate or conduct any activities in the state of Louisiana, every non-trading corporation, partnership or association of persons engaged in social, educational or political activities, affiliated with any similar non-trading corporation, partnership or association of persons, chartered, created or operating under the laws of any other state, shall file with the secretary of state yearly, on or before December 31, an affidavit attesting to the fact that none of the officers of such out of state or foreign corporation, partnership or association of persons with which it is affiliated, is a member of any such organization cited by the House of Congress un-American Activities Committee, or the United States Attorney General, as Communist, Communist-front or subversive.

387. Failure to file affidavit; penalty

Failure to file the affidavit required by R.S. 14:386 shall constitute a misdemeanor, and the officers and members of such non-trading corporation, partnership or association of persons operating in this state and affiliated with such out of state or foreign organizations, failing to

file such affidavit, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be fined $100.00 and imprisoned 30 days in the parish jail.

388. False statements in affidavit as perjury

Any false statement under oath contained in the affidavit required by R.S. 14:123.

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APPENDIX B.

VOLUME 4 LOYOLA LAW JOURNAL

MAINTAINING THE CONSTITUTION IN LOUISIANA

HON. JOHN M. PARKER

In this period of unrest and uncertainty, thinking Americans, instead of following the unknown and very dangerous paths of the various "isms," should steadfastly adhere to the advice of splendid patriotic men to whom this Nation owes an everlasting debt of gratitude for their foresight and for their wisdom. These patriots whom we can follow with the certainty of standing for everything best for our happiness and developments, are Washington, Jefferson, Lincoln and Roosevelt, each of whom will eternally live in the records of this country and has left the imprint of his powerful personality upon our people and looked to the future and to the prevention of those ills from which all other republics have suffered.

Washington said:

"* * * The very idea of the power and right of the people to establish Government presupposes the duty of every individual to obey the established government.

"All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract or awe the regular delibera-

tion and action of the constituted authorities, are obstructive of this fundamental principle, and of fatal tendency. * * * However combinations and associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines by which cunning, ambitious and unprincipled men will be able to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which lifted them to unjust dominion.

"Towards the preservation of your Government, and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular opposition to its acknowledged authority, but also that you resist with care the innovations upon its principles, however specious the pretext."

This statement was made in his farewell address to the American people. Every word came from the heart, from a man with vision and whole-soul desire to see that our Nation lived up to that constitution adopted by the convention over which he had the honor to preside.

Jefferson, that great apostle of Democracy, emphasized with all the power at his command, the purposes and intent of the constitution in declaring America to be a land where everyone could express his religious and political views, and who emphasized the fact that the constitution throws its protecting arm alike around Catholic and Protestant, Jew and Gentile, Hindu and Quaker.

Our martyr President, Lincoln, whose glorious memory will remain in the hearts of his people for countless generations, repeatedly plead for fearless and fair enforcement of the law by the duly constituted authorities elected by the people themselves; and he and other presidents emphasized the fact that laws were made by the people to be enforced and obeyed, and that ours was a Nation to be ruled by law and not by men.

No man ever fought harder for the rights of mankind than did my friend, Roosevelt. For twenty-five years it was my privilege to be intimate with him, and never once, by word, deed, or act, did he say or do anything that was not marked by the highest patriotism and a sincere desire to be of service to all the people. He repeatedly stated that he regarded it as wicked for any man to array class against class, religion against religion, and that one of the wise things of the Nation was the proviso in the constitution of every state that not a dollar of public funds should be appropriated for parochial schools of any creed, for the public schools belonged to all the people; therefore, they represented one of the greatest American assets to our future womanhood and manhood. Time after time he emphasized the fact that expenditures for our public schools were not a waste of money but the best investment that could be made.

Today we see all the splendid advice given us by those eminent Americans being cast aside and an effort made by an organization calling itself the Ku Klux Klan and members of the "Invisible Empire," having the audacity to rise superior to our duly constituted legal authorities and take the law in its own hands; waging a fight against Catholic and Jew; disrupting Protestant congregations;

seeking to dictate who shall and shall not be teachers in our public schools; ostentatiously making contributions to churches to influence the support of ministers (in no one instance were these donations reported refused) and endeavoring to tear asunder community ties and lifelong friendships by injecting into social life every one of the issues against which we have been so solemnly warned.

The time has come for me to make a clear-cut statement in regard to conditions at Mer Rouge.

On the 28th of August last, my phone rang late at night and a pitiful female voice appealed to me to try to help to find the petitioner's husband. The lady stated that her name was Mrs. Richards; that she was from Mer Rouge, Louisiana; that her husband had been taken from a baseball game and barbecue at Bastrop on August 24th, away from the garage where he worked; torn away from her little three-year-old child, who was with him, and that an earnest effort had failed to produce any information in regard to him. She begged me to do all in my power to try to locate him or learn what had become of him.

The pleading wife said she was an orphan when she married Richards, that she had two little girl babies, that Richards was a kind, good husband, had never been in any kind of trouble, and as he was only a garage employee, had left her absolutely destitute.

Within the next day or two, a letter came to me from J. L. Daniel, asking me to help him to find his son, Watt Daniel, who had been taken by masked men off the public highway of Louisiana at the same time Richards

was kidnapped. This statement was coupled with the information that the father himself had been brutally beaten as had a young man named Andrews before they were turned loose. The father wrote he would give anything in the world to find out what had become of his son.

He stated his son, Watt Daniel, had served during the War in the 336th Tank Corps, had always been a dutiful son and never in trouble. Daniel's war record was excellent. Many letters from officers and men in his division testify to his gallant record as a fearless soldier and patriotic American.

The judge of the district was asked to call a special session of the grand jury, and to request the assistance and cooperation of the district attorney and sheriff in order to ascertain who was responsible for these outrages and, if possible, what had become of the missing men. Accordingly, the grand jury of Morehouse Parish was called in session, and rumor had it that nine out of the twelve of that body were active Klansmen. The report was a complete whitewash and no information of any character was disclosed to show who were responsible for the outrages or what had become of the missing men.

In the meantime, information began to come to my office in the shape of letters and messages. Some were signed by the persons who sent them, but written in strict confidence, because the correspondents stated their lives were in danger. Others were unsigned, but furnished information which was later verified.

In compliance with my pledge to do all that lay in my power to bring to justice those guilty of these

hidden crimes, and after the duly constituted authorities of Morehouse Parish had signally failed to render any assistance, Attorney General Coco and myself made a trip to Washington where the details were laid before the President and Attorney General, and an official request made for the help of the Department of Justice-- not to supersede any state authorities, but representing as it did the best investigating brain in this country, to lend a helping hand to bring before the bar of justice those, who, under cover of mask and hood, violated the laws and were gravely suspected of taking human life. While in Washington, my statement was made to a large number of members of the Press Club, representing newspaper men that, instead of having any inquiry made by the present grand jury, there would be a public hearing where the ablest and best newspapers of the country would be represented by skilled journalists and the truth bared in regard to existing conditions. The splendid service of the Bureau of Investigation was shown at this hearing and when the cases are brought to trial will show overwhelming proof not only as to the guilty parties, but the fact established that every man charged with and guilty of the outrages in Morehouse Parish was a member of the Ku Klux Klan.

Letters and telegrams offering help came to me from all sections of the country but the only outsider was a Western newspaper man, himself a member of the tank corps, who had been to Morehouse and investigated conditions, and who was responsible for securing the diver and diving apparatus. These were never employed for the very sufficient reason that Lake Lafourche in which the bodies of Daniel and Richards were found, was dynamited

by Klansmen. If the purpose of these dynamiters was to destroy the bodies and remove the evidence, it failed. The bodies came to the surface and were identified beyond the possibility of doubt by those who knew and loved them.

With the single exception of Mrs. Richards, who called at my office, none of the other parties have ever been seen by me, to my knowledge. My work in assisting to enforce the law squarely and fearlessly deserves no praise, because it was in strict accordance with my oath of office.

The American public is familiar with the ghastly details of that hearing. It is further familiar with the public report that even the new grand jury which has been drawn will probably be largely composed of Klansmen and that the question of indictment is problematical, but the people have the assurance of the Attorney General that indictment or no indictment, he will file information against a large number of these men whom he and the special counsel will vigorously prosecute.

Law and order must and shall prevail in Louisiana. It is inconceivable that any body of men working under cover of darkness, garbed in gown and cowl should be permitted to rise superior to our legally constituted authorities and to the law.

This prosecution is neither religious nor political. My whole life has been spent as a Presbyterian, for thirty-five years a Mason, and my sons both Masons and war veterans with foreign service.

The Knights of the Ku Klux Klan have as much right to organize as the Knights of Columbus, the Masons, the B'Nai Brith and the Pythians, but neither the Klan nor any other organization has the moral right or the legal right to work under cover of darkness and mask to commit outrages and crimes that take us back to the middle ages and the days of barbarism.

Let us think over the words of Washington, Jefferson, Lincoln and Roosevelt. America was originally peopled by the bravest and most adventurous spirits of the Old World. We are the one Republic which has lasted nearly one hundred and fifty years, because we have been true to ourselves, true to our traditions and true to our constitution. We cannot, at this late date, commit the crime of mixing religion and politics, tearing families and communities asunder and creating untold bitterness and discord where peace and good will should prevail. Every state and the National Government should declare against masked men and mob violence in such unmistakable terms and with such severe penalties that none would incur the risk.

Members of the great secret societies referred to above gladly publish the list of their members and many of the members of these organizations wear over their heart on the lapel of their coats, the pin and emblem of their order. The Klan, on the contrary, endeavors to be absolutely secret as to who its members are, to create an air of mystery and terror and none can read the accounts carried in every newspaper in the United States, of the conditions in Morehouse Parish, of the orders of the Grand Cyclops to his "Terrors," and the manner in which these

orders were executed and not feel and know the time has come for drastic action.

Every man implicated in these outrages was a member of the Klan. The sheriff of Morehouse Parish, who sat by and saw these men carried off in direct violation of his sworn oath of office, was an official of the Klan. The sheriff's deputies, the district attorney and many others were members of the Klan.

Officials of that order have pledged themselves repeatedly, in fine-sounding phrases, to assist in maintaining law and order. The records of Morehouse Parish show that not a single one of them ever, in the remotest degree, rendered any help, but, on the contrary, by means of their own information bureau, and by the full power of the Klan, they did all in their power to intimidate witnesses, choke off the investigation and prevent the light of publicity from reaching the American people.

Not one single time, since my inauguration as Governor of Louisiana, has the Ku Klux Klan or the Knights of the "Invisible Empire," directly or indirectly, given me the least help in enforcing the law. On the contrary, time after time, the Klansmen have terrorized communities; have threatened; in some instances have brutally beaten people and in others have committed crimes with such secrecy and fiendishness it has been impossible to ferret out, convict and send to the penitentiary or hang the criminals.

Similar conditions may, sooner or later exist in other states, where absolutely, without an opportunity for defense, men and even women are tried in secret by a bit-

terly partisan hostile mob, that, acting as prosecutor, judge, jury and executioner, carries out its own sentences.

Interfering as it does, with the orderly conduct of constitutional American government, the Ku Klux Klan is a menace to the political liberties of the people. It seeks to enforce the law, where there are constituted authorities for that purpose; it strikes at freedom of religious conscience, when the American constitution guarantees that freedom. It pretends that its mission is to punish lesser offenses, and to do this it commits greater crimes. Founded on the mere excuse of moral reform, it has become the deadly enemy of law and order, an instrument of terrible vengeance, a form of secret government that seeks to justify mob law in its most deadly and blighting shape. These acts of the mob at Mer Rouge were deliberate, cruel, unnecessary. They show to what uses Klanism may be put.

It is time, here and now, to forever unmask organizations of this kind and compel their members to stand out in the pitiless light of publicity and be judged, that their identity be known and their responsibility fixed. Action, and vigorous action, is necessary on the part of the American people. Oh, men and women of America, you who love your families, who love your homes, who love your country for its countless blessings to you and yours—enlist now for this work. The answer is up to you!

APR 20 1961
JAMES R. BROWNING, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

No. 294

LOUISIANA, *ex rel.* JACK P. F. GREMILLION,
Attorney General,
Appellant,

vs.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, *et al.*,
Appellees.

WADE O. MARTIN, JR., Secretary of State, etc., *et al.*,
Appellants,

vs.

NEW ORLEANS BRANCH, OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, *et al.*,
Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

BRIEF FOR APPELLEES

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October Term, 1960

No. 294

LOUISIANA, *ex rel.* JACK P. F. GREMILLION, Attorney General,

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vs.

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Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

BRIEF FOR APPELLEES

Statement

On March 1, 1956, the State of Louisiana, through its Attorney General, Fred S. LeBlanc, commenced proceedings in the 19th Judicial District Court for the Parish of East Baton Rouge against appellees, the National Asso-

ciation for the Advancement of Colored People and some of its officials and members in Louisiana, for failure to comply with the provisions of LRS 12:401-409. The relief sought was an injunction barring all activities of the appellee organization and dissolution of all of its subdivisions and affiliates in the State of Louisiana (R. 1-8).

On March 28, 1956, the National Association for the Advancement of Colored People, on behalf of itself and its officers and members named as parties in the aforesaid proceedings, filed a petition for removal to the United States District Court for the Eastern District of Louisiana under the provisions of Title 28, United States Code, Section 1443(2). Despite the fact that the requirements of Title 28, United States Code, Section 1446(d) and (e) in respect to notice and bond were properly met (R. 10-14), and without regard to the clear prohibitive language of Title 28, United States Code, Section 1446(e), the 19th Judicial District Court for the Parish of East Baton Rouge proceeded on March 29, 1956, to a hearing on the state's complaint. After hearing, the state court issued an injunction against the continued or further operation of the appellee organization and any of its affiliates until the requirements of LRS 12:401-409 had been met.

Appellees, thereupon, applied to the federal court, to which the cause had been removed, for an injunction to stay further action in the state courts until federal jurisdiction had been determined in the removal proceedings. After hearing on April 4, 1956, the court below concluded that it could not properly dissolve what the state court had done subsequent to removal; advised appellees to seek relief in the state courts, including application here if necessary; and decided to defer further action in the removal proceedings until appellees had secured a determination on appeal of the propriety of the state court's disregard of Title 28, United States Code, Section 1446(e).

On November 26, 1956, the Louisiana Court of Appeals, for the First Circuit ruled (90 So. 2d 884) that the matter was properly before the federal court on removal, that all the action taken in the state court subsequent to removal was a nullity, and upon that basis dismissed the appeal.

Because of the ever present threat of prosecution under LRS 12:404, several of the subdivisions of the appellee-organization in order to function undertook to file a list of their members with the Secretary of State (R. 151), and affiliates which did not do so did not operate. On June 30, 1958, *N.A.A.C.P. v. Alabama*, 357 U. S. 449, was decided by this Court. Thereafter, none of appellee's affiliates undertook to disclose the names of their members to the Secretary of State.

After decision by the Louisiana Court of Appeals, hereinabove referred to, state officials made no effort in the federal courts to remand to the state courts the cause which appellees had removed, and appellees took no action in the federal courts to obtain a determination as to the propriety of the attempted removal under Title 28, United States Code, Section 1443. The matter was merely left pending on the docket of the federal court.

In 1958 the State of Louisiana enacted LRS 385-388, which requires all of the Louisiana subdivisions and affiliates of the appellee organization to file annually with the Secretary of State an affidavit, attesting that none of the officers of the appellee corporation belong to any organization cited by the House Un-American Activities Committee or by the Attorney General of the United States as a Communist, Communist-front or subversive organization.

On November 24, 1958, appellees, the New York corporation, its New Orleans affiliate and the officers thereof, filed suit against the Secretary of State, the Attorney General and the District Attorney of Orleans Parish attacking the constitutionality of both LRS 14:385-388 and

LRS 12:401-409 at the grounds the enforcement of these statutes would deprive the organization and its members of federally-protected rights of freedom of speech and association, due process and equal protection of the laws and access to the courts—all in violation of Fourteenth Amendment guarantees. An injunction was sought to prevent the enforcement of LRS 12:401-409, insofar as it would require the disclosure of the names and addresses of any member of the NAACP, and of LRS 14:385-388, insofar as it would require the submission of an affidavit by any NAACP affiliate in Louisiana, and to prevent enforcement of any penalties against appellees' members, officers or contributors for failure to disclose the names of the members of the NAACP or to submit the affidavit required (R. 15-24).

On December 22, 1958, appellants filed their answer in the court below (R. 32-35). On October 9, 1959, while this action was pending, the Attorney General secured a temporary restraining order and injunction in the First Judicial District Court for the Parish of Cado barring all NAACP activities in the state for failure to comply with the provisions of LRS 12:401-409 and LRS 14:385-388 (R. 42-55).

On October 21, 1959, appellees filed a motion for a temporary restraining order and preliminary injunction in the court below seeking to have appellants barred from proceeding further in the state courts (R. 36-41). On October 30, 1959, the cause which appellees had instituted challenging the constitutional validity of LRS 12:401-409 and LRS 14:385-388 and the action removed the court below were consolidated and set down for hearing, with all the evidentiary matter therein to be submitted by affidavit or in other documentary form (R. 58).

In November, 1959, the matter came on for hearing before a statutory United States District Court. The evidence is uncontroverted that between the years 1955 and 1959, the

NAACP had suffered a frightening erosion. There has been a vast reduction in memberships and a great decline in the number of functioning NAACP affiliates as well, accompanied by a severe loss in revenue (R. 58-67, 117-119). Appellees attributed these losses to the anti-NAACP climate in Louisiana and to the fear of prospective NAACP members and contributors of public disclosure of their NAACP connection with resultant economic and physical reprisals and harassment (R. 59-66, 105, 117-120, 125-127), and in support thereof, affidavits and exhibits attesting to specific incidents of intimidation were filed (R. 103-104, 106-108, 109, 116, 121-125, 136-141).

The evidence disclosed that in 1950 and 1951, no organization and in 1952, 1953, 1954 and 1955, only a few organizations filed lists of their members with the Secretary of State. Approximately 1,000 such lists were filed in 1956; 2,000 in 1957; 1,000 in 1958 and 500 in 1959 (R. 130). A total of 12 NAACP affiliates filed lists of members with the Secretary of State in 1957, and the three units which filed lists in both 1956 and 1957 reported more members on the latter occasion (R. 151).

Appellants were unable to give any concrete information concerning the number or the names of the organizations against which action had been brought for failure to comply with LRS 14:385-388 and LRS 12:401-409 (R. 129), despite a specific request by the court below that such information be furnished (R. 58).

Summary of Argument

LRS 12:401-409 was enacted in 1924 to unmask and to curb the lawless activities of the Ku Klux Klan. After the Klan menace had faded, the statute became a virtual dead letter, unheeded and unenforced by state authorities. In 1956, however, the statute was resurrected, and failure to comply with its terms was used as the basis for court pro-

ceedings seeking a ban on all NAACP activity and dissolution of all NAACP units in Louisiana. Whatever the reasonableness of a requirement that the identity of members of organizations be made public, where their members are oath bound, operate in secret, commit acts of lawlessness, foment racial and religious intolerancy and generally subvert civil authority (see, S. Rep. No. 41, parts 1-13, 42nd Cong. 2d Sess. (1872); *Hearings on the Ku Klux Klan before the House Committee on Rules*, 67th Cong. 1st Sess. (1921); *Bryant* v. *Zimmerman*, 278 U. S. 63; *Knights of the KKK, Inc.* v. *Stranger*, 26 F. 2d 727 (W. D. Pa. 1928)), an attempt to enforce such a requirement against a wholly different kind of organization and under totally disparate circumstances raises constitutional questions of serious proportions. *Cf. Barenblatt* v. *United States*, 360 U. S. 109.

The effect of enforcement here is to deter the exercise of rights of freedom of association of members of appellee organization. Appellees' members are not oath bound; they do not operate in secret, commit acts of lawlessness, foment religious intolerance or seek to subvert civil authority. While appellees' aims and purposes are at variance with those of state officials in respect to the validity and merits of racial segregation, there is no evidence of any effort to effectuate these views by other than lawful means. The choice here is not between permitting the strengthening of organizations that might seek in the future to accomplish lawlessness and deterring exercise of rights of freedom of association in respect to lawful, albeit dissident and unpopular activity, as appellants seem to suggest. There are clearly other alternatives open to the state less restrictive upon the exercise of freedom of association than that which the state seeks here. See *Bryant* v. *Zimmerman*, *supra*. As such, LRS 12:401-409 is clearly invalid and must fall. *Shelton* v. *Tucker*, 364 U. S. 479; *Cantwell* v. *Connecticut*, 310 U. S. 296; *Saia* v. *New York*, 334 U. S. 558.

Moreover, apart from the statute's invalidity on the grounds aforesaid, the evidence is clear that appellees have been denied equal protection of the laws by virtue of unjust and illegal discrimination in the administration and enforcement of the statute by appellants. See *York* Bd. v. *Hopkins*, 118 U. S. 536; cf. *Lassiter* v. *Northampton County Board of Elections*, 360 U. S. 45, 53; *Shuttlesworth* v. *Birmingham Board of Education*, 162 F. Supp. 372 (N. D. Ala. 1958), aff'd, 358 U. S. 101.

Only a word need be said about LRS 14:385-388. It seems to be clearly in violation of basic due process requirements in that it seeks to punish in the absence of personal knowledge and for the activities of others over whom those subject to penalty have no control.

Since both statutes restrict exercise of rights of freedom of association, their application to require the disclosure of appellees' members can validly take place only upon a showing that the state interest in the publication of the membership list here in question is compelling. *Bates* v. *Little Rock*, 361 U. S. 516; *N.A.A.C.P.* v. *Alabama*, 357 U. S. 449. Having failed to demonstrate this, the state has no sound basis upon which to contest the judgment below. Appellees respectfully submit, therefore, that the judgment below should be affirmed.

ARGUMENT

LRS 12:401-409, insofar as it requires the public disclosure of appellees' members, and LRS 14:385-388, insofar as it requires the submission of an affidavit by local affiliates respecting the activities of the officers of the New York corporation, are unconstitutional and void.

LRS 12:401-409 was enacted in 1924 aimed at the Ku Klux Klan. (See Appellants' brief, p. 15 and Appendix B thereto at p. 50, *et seq.*) The statute is not limited to oath

bound or secret organizations (*cf.* the New York statute in *Bryant v. Zimmerman*, 278 U. S. 63) but requires all organizations, with the exception of churches and the National Guard, to file annually a list of their members with the Secretary of State. Despite its broad sweep, apparently the statute was never uniformly enforced, and after the menace of the Klan had passed, it fell into disuse (R. 136). In 1956, however, it was resurrected as a means of curbing the activities of the appellee organization. Aside from proceedings commenced against this organization, there is no record of the state seeking to secure compliance with the statute (R. 59, 129).

Obviously, constitutional guarantees of freedom of speech and association do not strip the state of power to prevent lawlessness, violations of the rights of others or subversion of civil authorities. See *American Communications Association v. Douds*, 339 U. S. 382. And it was on this basis that enforced public disclosure of members of the Ku Klux Klan was upheld in *Bryant v. Zimmerman*, *supra*.

Both LRS 12:401-409 and the New York statute under review here in *Bryant v. Zimmerman* were enacted to deal with a specific evil which had plagued state and federal authorities for some time. The Ku Klux Klan was first organized in Tennessee in 1866 and spread rapidly through the South. The organization operated in secret, sought to prevent Negroes from exercising their newly granted constitutional rights by violence and other forms of intimidation, and its aim was to wrest political control of the South from the North and the Republican Party. Congressional investigation revealed that the organization lived on terror, committed acts of physical violence, including lynchings and murder as punishment for infractions of its code of appropriate personal or moral conduct. See, S. Rep. No. 41, pts. 1-13, 42nd Cong. 2d Sess. (1872); Myers, "History of Bigotry in the United States" 270-271 (1944). The Klan was suppressed by federal military authority.

After World War I, there was a resurgence of the Ku Klux Klan. The modern Klan was first organized in 1915 modelled in spirit and practice after the old Klan. In addition to being anti-Negro, the new Klan was both anti-Semitic and anti-Catholic and, therefore, stirred up religions as well as racial prejudice, fomented disorder and encouraged riots and unlawful assembly resulting in breaches of the peace, defiance of the law, bloodshed and loss of life. See *Hearings on the Ku Klux Klan before the House Committee on Rules*, 67th Cong. 1st Sess. (1921); *Knights of the KKK, Inc. v. Strayer*, 26 F. 2d 727 (W. D. Pa. 1928); Bohn, "The Ku Klux Klan Interpreted," 30 *Am. J. Soc.* 385 (1925); Myers, *op. cit. supra* Chaps. 24, 25 and 26; Franklin, "From Slavery to Freedom" 471-474 (1948); White, "The Rope and the Faggot" (1929); Tannenbaum, "The Darker Phases of the South" (1924).

In *Bryant v. Zimmerman*, *supra* at page 72, this Court approved the enforced public identification of members of oath bound organizations on the ground that the state could "apply to associations having an oath-bound membership any reasonable regulation calculated to confine their purposes and activities within limits which are consistent with the rights of others and the public welfare." The Court reasoned that the disclosure required might operate as an "effective or substantial deterrent" to the commission of violations of public and private right which the association might be tempted to engage in otherwise; and it was assumed that in the enacting of the statute, the New York legislature had before it the facts in relation to the Klan which had been brought to light in the hearings before the House Committee on Rules, referred to above.

2. Appellee organization, however, does not operate in secret. Its members are not bound by secret oaths. It has no aims or purposes at war with those embodied in the fundamental law. It seeks to secure equal citizenship rights for all persons without regard to their race or color. And

although this is a dissident view to which many persons stand opposed in principle or practice, appellee and its members have not sought to achieve their aims by resort to violence or lawlessness. The disclosure here sought, therefore, raises quite different constitutional questions than those present when public identification is used to curb or contain lawless activities. See *N.A.A.C.P.* v. *Alabama*, 357 U. S. 449.

It seems clear, therefore, that in upholding the removal of secrecy surrounding the identity of members of an organization whose members are bound by secret oath and committed to lawless acts in furtherance of group aims, this Court is not forced by inexorable logic to the necessity of sustaining the public disclosure of the members of all organizations without regard to their purposes, aims or activities, the public needs which the disclosure serves or its effect on the exercise of freedom of association in respect to legitimate activity. Cf. *Barenblatt* v. *United States*, 360 U. S. 109.

The state argues for the validity of LRS 12:401-409 as a proper exercise of state power to prevent future evil. In *N.A.A.C.P.* v. *Alabama, supra;* and *Bates* v. *Little Rock*, 361 U. S. 516, this Court found that public disclosure of the identity of NAACP members in Alabama and Arkansas constituted a real and effective deterrent to the exercise of rights of freedom of association secured against state interference under the due process clause of the Fourteenth Amendment.

Here, similarly, evidence has been introduced showing that members of the NAACP once publicly identified were subject to intimidation, harassment and reprisals (R. 59-67, 103-127), and that the appellee organization had sustained grave losses in respect to members, affiliates and finances (R. 59-67, 117-119). Unlike *Alabama* and *Bates*, the testimony is not uncontroverted, for the state here seeks to dispute the existence of specific instances of intimidation, harassment or reprisals about which ap-

pellees' witnesses testified. Aside from the unlikelihood, at the present stage in American history, of attitudes on questions of racial equality being substantially different in Louisiana than those in Arkansas or Alabama, the existence of an anti-NAACP climate throughout the South has been publicized so thoroughly, see, *e.g.*, Robison, "Protection of Associations From Compulsory Disclosure of Membership", 58 *Col. L. Rev.* 614 (1958); Assault on Freedom of Association, *American Jewish Congress* (1957); "Intimidation, Reprisals and Violence", *American Friends Service Committee, et al.* (1959); Dykeman and Stokely, "McCarthyism Under the Magnolias", *The Progressive* (July 1959), that the Court, even in the absence of evidentiary data, could take judicial notice of its existence.

Moreover, the crucial issue is not whether the disclosure results in intimidation, reprisals or harassment in fact, but whether the atmosphere is such that there is a rational fear that such pressures might result from the revealment of an associational connection with the NAACP, and as a consequence persons are discouraged from joining or participating in the organization. Indeed, appellees submit that the *ratio decedendi* of the *Alabama* and *Bates* cases is that public identification of members of an organization advocating lawful views, aims and purposes which may be disapproved by the controlling majority is *per se* a deterrent to the exercise of rights of freedom of association. See, *Watkins* v. *United States*, 354 U. S. 178, 198; *American Communications Association* v. *Douds*, *supra* at p. 402. Where such disclosures are sought, as Mr. Justice Stewart stated in *Bates* v. *Little Rock*, *supra*, at 524, decision "must finally turn, therefore, on whether the * * * State [has] demonstrated so cogent an interest in obtaining and making public the membership lists of these organizations as to justify the substantial abridgment of associational freedom which such disclosure will effect. Where there is a significant encroachment on personal liberty, the State must prevail only upon showing a subordinating interest which is compelling."

The need to prevent the recurrence in the future of an evil, akin to that which in 1924 LRS 12:401-409 was enacted to eliminate, cannot supply that compelling justification essential to sustain application of the legislation to these appellees in 1961. Recently in *Shelton* v. *Tucker*, 364 U. S. 479, 488, Mr. Justice Stewart stated what appears to have been a guiding principle in this Court's evaluation of the competing claims of governmental authority to enforce police power regulations as against the individual's right to freedom from restraint. There he said: "[E]ven though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breath of the legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose". See also, *Cantwell* v. *Connecticut*, 310 U. S. 296; *Saia* v. *New York*, 334 U. S. 558. And though Mr. Justice Stewart was speaking for a divided Court, there is unanimous support for the view that the existence of possible alternative methods by which the state may achieve its ends, having a less restrictive impact upon freedom of association, is at least a "constitutionally relevant consideration" in determining whether the state has encroached too far on the Fourteenth Amendment guarantees of personal liberty. See Mr. Justice Frankfurter, dissenting in *Shelton* v. *Tucker, supra*, at pages 490, 493.

That such alternatives are present here is hardly open to question. Certainly it cannot be said that all organizations pose a potential threat to civil authority. Oath bound organizations, or those that operate in secret, or those with unlawful purposes may, but the harm which such organizations can cause might be met by a requirement that all organizations reveal their aims, purposes and activities, or be required to indicate how they function, or that oath bound organizations and those operating in secret disclose who their members are. In short, the

choice is not between leaving Louisiana incapable of preventing a resurgence of organized lawlessness or depriving appellees' members of guarantees of freedom of association: A more narrowly drawn statute clearly inapplicable to appellees or the administration of the statute so that it affects only those organizations guilty of or condoning lawlessness would accomplish what the state here indicates is its concern without doing violence to fundamental rights of freedom of association.

3. Moreover, the validity of a governmental regulation must be judged in relation to the specific circumstance in which officials seek to apply it. Thus, a statute fair on its face will be struck down if the evidence discloses that it is being utilized to perpetuate a discrimination which the Fourteenth or Fifteenth Amendments were designed to uproot. See *Lassiter v. Northampton County Board of Elections*, 360 U. S. 45, 53; *Yick Wo v. Hopkins*, 118 U. S. 536; *Shuttlesworth v. Board of Education*, 162 F. Supp. 372 (N. D. Ala. 1958), aff'd, 358 U. S. 101. Under this yardstick, where the evidence here discloses that state officials are unable to furnish any evidence concerning the number or names of the defendants prosecuted under a statute which has been a part of the law of the state since 1924, enforcement of LRS 12:401-409 against appellees would appear to constitute a certain denial of equal protection of the laws.

4. LRS 14:385-388, appellees respectfully submit, is obviously unconstitutional. Here local organizations affiliated with out-of-state corporations are required to file annually with the Secretary of State a sworn statement that none of the officers of the out-of-state corporation are members of any organization cited by the Un-American Activities Committee or the Attorney General of the United States as a communist, Communist front or subversive organization. Failure to file the required affidavit makes

the officers and members of the local organization subject to punishment, and the filing of a false affidavit is punishable as perjury.

In the present instance, there are some 18 directors, 20 Vice-Presidents and approximately 10 chief executive officers of the New York corporation. These officials come from all parts of the United States, but only a few of them reside or work in Louisiana. It would obviously be absurd to expect local persons to have sufficient knowledge of the personal background of each of these 78 persons to be able to file the required affidavit. The statute seeks to penalize individuals for what out-of-state persons may have done even in the absence of personal knowledge or unlawful activity on the part of the affiliate or individual which the statute undertakes to control.

Mr. Justice Frankfurter, concurring in part and dissenting in part in *Garner* v. *Board of Public Works*, 341 U. S. 716, 724, 728, could have been speaking as if the instant statute were before the Court. There he said: "* * * [I]t is [not] consonant with the Due Process Clause for men to be asked * * * to swear to something they cannot be expected to know. Such a demand is at war with individual integrity * * *." *Cf. Wieman* v. *Updegraff*, 344 U. S. 183; *DeJonge* v. *Oregon*, 299 U. S. 353; *Gerende* v. *Board of Supervisors*, 341 U. S. 56; *Adler* v. *Board of Education*, 342 U. S. 485. As a matter of fact, faced with such a requirement, prudence would necessitate refusing to file the affidavit, and indeed to reject participation in the organization rather than to be subject to punishment for failure to do the impossible. As such, the statute is patently unreasonable and an unwarranted violation of constitutional guarantees of due process of law.

CONCLUSION

Wherefore, for the reasons hereinabove stated, the judgment below should be affirmed.

Respectfully submitted,

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SUPREME COURT OF THE UNITED STATES

No. 294.—October Term, 1960.

Louisiana ex rel. Jack P. F. Gremillion, Attorney General, et al., Appellants, v. National Association for the Advancement of Colored People, et al.	On Appeal From the United States District Court for the Eastern District of Louisiana.

[May 22, 1961.]

Mr. Justice Douglas delivered the opinion of the Court.

One of the suits that is consolidated in this appeal was instituted in 1956 by the then Attorney General of Louisiana against appellee, the National Association for the Advancement of Colored People, in a Louisiana court and sought to enjoin it from doing business in the State. It was removed to the federal court.[1] Thereafter NAACP sued appellants in the federal court asking for a declaratory judgment that two laws of Louisiana were unconstitutional. A three-judge court was convened (28 U. S. C. § 2281) and the cases consolidated. After a hearing (on affidavits) and oral argument the court entered a *temporary* injunction that denied relief to appellants and enjoined them from enforcing the two laws in question. 181 F. Supp. 37. The case is here on appeal. 28 U. S. C. § 1253. We noted probable jurisdiction. 364 U. S. 869.

One of the two statutes of Louisiana in question prohibits any "non-trading" association from doing business

[1] See also *State* v. *N. A. A. C. P.*, 90 So. 2d 884.

in Louisiana if it is affiliated with any "foreign or out of state non-trading" association "any of the officers or members of the board of directors of which are members of Communist, Communist-front, or subversive organizations, as cited by the House of Congress [*sic*] Un-American Activities Committee or the United States Attorney."[2] Every nontrading association affiliated with an out-of-state association must file annually with Louisiana's Secretary of State an affidavit that "none of the officers" of the affiliate is "a member" of any such organization.[3] Penalties against the officers and members are provided for failure to file the affidavit and for false filings.

The NAACP is a New York corporation with some forty-eight directors, twenty vice-presidents, and ten chief executive officers. Only a few reside or work in Louisiana. The District Court commented that the statute "would require the impossible" of the Louisiana residents or workers. 181 F. Supp., at 40. We have received no serious reply to that criticism. Such a requirement in a law compounds the vices present in statutes struck down on account of vagueness. Cf. *Winters* v. *New York*, 333 U. S. 507. It is not consonant with due process to require a person to swear to a fact that he cannot be expected to know (cf. *Tot* v. *United States*, 319 U. S. 463), or alternatively to refrain from a wholly lawful activity.

The other statute[4] requires the principal officer of "each fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization or organizations created for similar purposes" and operating in Louisiana to file with the Secretary of State annually

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[2] La. Rev. Stat., 1950, § 14:385 (1958 Supp.).

[3] La. Rev. Stat., 1950, § 14:386 (1958 Supp.).

[4] La. Rev. Stat., 1950, §§ 12:401–409.

"a full, complete and true list of the names and addresses of all of the members and officers" in the State. Members of organizations whose lists have not been filed are prohibited from holding or attending any meeting of the organization. Criminal penalties are attached both to officers and to members.

We are told that this law was passed in 1924 to curb the Ku Klux Klan, but that it was never enforced against any other organization until this litigation started; that when the State brought its suit some affiliates of NAACP in Louisiana filed membership lists, and that after those filings, members were subjected to economic reprisals. 181 F. Supp., at 39. The State denies that this law is presently being enforced only against NAACP; it also challenges the assertions that disclosure of membership in the NAACP results in reprisals. While hearings were held before the temporary injunction issued, the case is in a preliminary stage and we do not know what facts further hearings before the injunction becomes final may disclose. It is clear from our decisions that NAACP has standing to assert the constitutional rights of its members. *N. A. A. C. P.* v. *Alabama*, 357 U. S. 449, 459. We deal with a constitutional right, since freedom of association is included in the bundle of First Amendment rights made applicable to the States by the Due Process Clause of the Fourteenth Amendment. *Id.*, p. 460; *Bates* v. *Little Rock*, 361 U. S. 516, 523. And where it is shown, as it was in *N. A. A. C. P.* v. *Alabama*, *supra*, 462–463, that disclosure of membership lists results in reprisals against and hostility to the members, disclosure is not required. And see *Bates* v. *Little Rock*, *supra*, 523–524.

We are in an area where, as *Shelton* v. *Tucker*, 364 U. S. 479, emphasized, any regulation must be highly

selective in order to survive challenge under the First Amendment. As we there stated: ". . . even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved." *Id.*, 488.

The most frequent expressions of that view have been made in cases dealing with local ordinances regulating the distribution of literature. Broad comprehensive regulations of those First Amendment rights have been repeatedly struck down (*Lovell* v. *Griffin*, 303 U. S. 444; *Schneider* v. *State*, 308 U. S. 147; *Cantwell* v. *Connecticut*, 310 U. S. 296), though the power to regulate the time, manner, and place of distribution was never doubted. As stated in *Schneider* v. *State*, *supra*, 160–161, the municipal authorities have the right to "regulate the conduct of those using the streets," to provide traffic regulations, to prevent "throwing literature broadcast in the streets," and the like. Yet, while public safety, peace, comfort, or convenience can be safeguarded by regulating the time and manner of solicitation (*Cantwell* v. *Connecticut*, *supra*, 306–307), those regulations need to be "narrowly drawn to prevent the supposed evil." *Id.*, 307. And see *Talley* v. *California*, 362 U. S. 60, 64.

Our latest application of this principle was in *Shelton* v. *Tucker*, *supra*, where we held that, while a State has the undoubted right to inquire into the fitness and competency of its teachers, a detailed disclosure of every conceivable kind of associational tie a teacher has had probed into relationships that "could have no possible bearing upon the teacher's occupational competence or fitness." *Id.*, 488.

At one extreme is criminal conduct which cannot have shelter in the First Amendment. At the other extreme are regulatory measures which, no matter how sophisti-

cated, cannot be employed in purpose or in effect to stifle, penalize, or curb the exercise of First Amendment rights. These lines mark the area in which the present controversy lies, as the District Court rightly observed.

Affirmed.

MR. JUSTICE HARLAN and MR. JUSTICE STEWART concur in the result.

SUPREME COURT OF THE UNITED STATES

No. 294.—October Term, 1960.

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[May 22, 1961.]

Mr. Justice Frankfurter, whom Mr. Justice Clark joins, concurring.

One of the important considerations that led to the enactment of the Norris-LaGuardia Act, 47 Stat. 70, limiting the jurisdiction of the District Courts to grant injunctions in labor controversies, was that such injunctions were granted, usually by way of temporary relief, on the basis of affidavits. I am of the view that the issues that arise in controversies like the present one are likewise more securely adjudicated upon a foundation of oral testimony rather than affidavits. At all events, I am dubious about a fixed rule, such as that which is apparently in effect in the District Court for the Eastern District of Louisiana, barring oral testimony—subject to the usual safeguards of cross examination—in proceedings for a temporary injunction. I assume that oral testimony will be available in a proceeding to make the temporary injunction permanent.

In this understanding I concur in the judgment of the Court.